Ṣaḥīḥ Muslim

With the Full Commentary by

Imam al-Nawawī

Translated and Edited by

Adil Salahi

VOLUME

·EIGHT·

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TRANSLITERATION TABLE

Arabic Consonants

Initial, unexpressed medial and final: ء ’

ا	a	د	d	ض	ḍ	ك	k
ب	b	ذ	dh	ط	ṭ	ل	l
ت	t	ر	r	ظ	ẓ	م	m
ث	th	ز	z	ع	‘	ن	n
ج	j	س	s	غ	gh	هـ	h
ح	ḥ	ش	sh	ف	f	و	w
خ	kh	ص	ṣ	ق	q	ي	y

With a *shaddah*, both medial and final consonants are doubled.

Vowels, diphthongs, etc.

Short:	ـَ a	ـِ i	ـُ u
Long:	ـَا ā	ـِي ī	ـُو ū
Diphthongs:	ـَوْ aw		
	ـَيْ ay		

In the name of God, the Most Compassionate, the Ever Merciful

PREFACE

We live in a time when people can spread their views around the globe at the touch of a button. Yet such views may come from people of little knowledge who can confuse and even misguide others. This is a concern that has become particularly acute with the widespread misrepresentation of Islam, both by those hostile towards it, and, unfortunately, even those who claim to profess it. Through their evil but eloquent schemes, such people can misrepresent the sacred teachings of this religion, and direct the ignorant and the ill-fated to perpetrate heinous crimes against both an innocent public and an innocent religion. Such deception and misinterpretation has sadly become all too common in our day, and among its causes is, undoubtedly, the relative inaccessibility of sound Islamic scholarship and literature in the English language. An additional cause is the suggestion that there is no difference between experts and non-experts. It is as though God never declared in His Book: '*How can those who know be equal to those who do not know?*' (39: 9)

A plethora of problems can arise when non-experts begin to consider themselves experts on a subject matter. One can vividly illustrate with the example of a person who requires medical attention. A sensible individual would choose to be treated by a medical professional—an expert in the field—rather than risk their health by consenting to a medical procedure from someone who fancies themselves a doctor simply because they have read a medical textbook in their spare time. Indeed, there are serious legal consequences for those who claim to practice medicine without a recognized licence—one which is granted because they have been through rigorous training and examination. Such legal repercussions are entirely

appropriate of course, for such frauds place people's worldly lives at risk. Yet why is it that when it comes to our health we seek an expert opinion, but when it comes to our everlasting Hereafter so many of us prefer to follow someone who considers himself an expert after reading just a couple of books? Simply put: why do we risk our eternity by following those who are not qualified? Why do we not seek out recognized experts? As God the Almighty says: '*ask the people of knowledge if you do not know*.' (16: 43) It is precisely to address this gap between scholarly works and non-scholarly opinions that we have endeavoured to produce this invaluable resource.

After reading the entirety of *al-Minhāj* in Turkish, the Director of Organisational Management at Islamic Community Milli Gorus (ICMG) Youth Australia, Adem Temel, conducted a meeting with our small team in which we studied the book and recognized how blessed we were to have access to such a stupendous work. It was evident that the renowned scholar and author of *al-Minhāj*, Imam al-Nawawī, may God have mercy on him, had wisdom and knowledge many today are in desperate need of. Indeed, *al-Minhāj* is one of the greatest and most respected commentaries on *Ṣaḥīḥ* Muslim. While an English translation of a hadith can struggle to convey its apparent meaning, let alone the appropriate context and other subtleties, commentaries by experts like Imam al-Nawawī can shed light on hadiths more comprehensively and thus give us greater access to the intended meaning while guarding us against misunderstanding. During a subsequent meeting, our team compared the Turkish translation of *Fī Ẓilāl al-Qur'an* with the English translation by Dr Adil Salahi and were impressed by the remarkable consistency between the two translations. Immediately thereafter, the team made the decision to contact Dr Salahi with a view to proposing that he translate Imam al-Nawawī's *al-Minhāj* into English. We were overjoyed to hear his positive response.

A number of people and organizations have contributed to this project. Firstly, this work would not have been possible without Adil Salahi's mastery of both the Arabic and English languages. His love of Prophet

Muhammad, peace and blessings be upon him, and his dedication to making knowledge accessible has led to the translation of significant works from the Islamic literary heritage. Second, the ICMG Youth Australia and Kube Publishing (UK) teams worked closely to meet all project timelines. Third, many individuals and groups volunteered to support this project both physically and financially. Lastly, and most importantly, God, the Almighty, guided us, brought ease, and opened closed doors to make everything possible.

‘… and my success can only come from God. In Him I put my trust, and to Him I will return.’ (11: 88)

Halim Erbasi
ICMG Youth Australia
Director of Education

BEFORE YOU READ

There are some important points that the reader, particularly a student of Hadith, needs to bear in mind when using this book. Although these have been explained in the Introduction to the first volume, it is considered worthwhile to remind readers of the editorial method followed in this work.

1. Numbering and references

It is surprising, but there has never been a full and serial numbering of hadiths in *Ṣaḥīḥ* Muslim, and hence references to hadiths vary. A hadith is often referenced by book and chapter: 'Related by Muslim, Book of Faith, Chapter so-and-so', and so forth. This is a difficult method of referencing, particularly because the headings of some chapters run into two or three lines, or even longer. The fullest numbering of the hadiths in *Ṣaḥīḥ* Muslim is that given in *al-Muʿjam al-Mufahras li-Alfāẓ al-Ḥadīth*, but many hadiths are left without numbers. These are versions of the previous hadith, differing only in their chains of transmission, and it was probably felt that they should count with the earlier and often more complete version.

Al-Muʿjam al-Mufahras is a concordance of the words of the Prophet's hadiths listed in the most important nine anthologies: al-Bukhārī, Muslim, Abū Dāwūd, al-Tirmidhī, al-Nasā'ī, Ibn Mājah, as well as Mālik's *al-Muwaṭṭa'*, Ahmad's *al-Musnad* and al-Dārimī's *Sunan*. It was prepared by a group of forty Western researchers of Islamic studies under the supervision of Arent Jan Wensinck (1882–1939) and edited by the Egyptian scholar Muhammad Fu'ād ʿAbd al-Bāqī (1882–1967).[i]

However, *al-Muʿjam al-Mufahras* gives a serial number to each 'book' in Muslim's *Ṣaḥīḥ*. Thus, it lists the numbers of the hadiths in the Book of

Faith from 1 to 380, and then begins the numbering in the Book of Cleansing from 1. As such, it does not give a complete serial numbering to the entire anthology. I have therefore decided to provide serial numbering, giving every hadith its own numbered identification. In doing so, I follow the method adopted by the late hadith scholar Mūsā Shāhīn Lāshīn (1920–2009) in his 10-volume commentary, *Fatḥ al-Munʿim fī Sharḥ Ṣaḥīḥ Muslim*. This method does not assign a number for a hadith that differs from the one before it only in its chain of transmission, but that has exactly the same text.

Muslim's *Ṣaḥīḥ* has been translated into English by Abd al-Hamid Siddiqui. The translation is well circulated and its better known edition, published by Dār al-Salām, is available online. After looking carefully at this translation, I have decided to provide my own. However, the translation gives a full serial numbering of the hadiths listed by Muslim, bringing the total to 7,190 hadiths. This is different from Lāshīn's method of numbering, which brings the total to 6,571 hadiths. To make it easier for readers who wish to refer to Dār al-Salām's translation, I give the number in that translation in brackets before the chain of transmission.

Thus, three sets of numbers are included before the chain of transmission of each hadith. The first is a complete serial number following Lāshīn's method. The second is that of *al-Muʿjam al-Mufahras* and the third is that of Dār al-Salām's translation given in brackets. Where Lāshīn or *al-Muʿjam al-Mufahras* does not give a hadith a number, because it is the same as the hadith before it, I follow the convention of giving it the mark '000'. Thus, either of the first two numbers may be replaced by 000. Where Dār al-Salām's translation omits a hadith or does not give it a number, I give it the mark '0'. The pattern of numbering is simplified, as follows:

Lāshīn – *Al-Muʿjam* – (Dār al-Salām)

This applies to all the hadiths that are entered in the anthology itself, beginning with the Book of Faith. Imam Muslim wrote a long introduction

to his work, explaining his method. In it, he includes ninety-two hadiths and statements by the early scholars of Hadith. These are given separate numbers, from 1 to 92. Only a few of these are entered in *al-Muʿjam al-Mufahras*, because the majority are attributed to scholars of Hadith. Whichever is entered in *al-Muʿjam al-Mufahras* its number is stated. Dār al-Salām's translation does not include this introduction.

When a hadith is entered in any of the other five anthologies considered to be the most authentic, I mention these in a footnote. Where no such information is given, it means that the hadith is entered only in Muslim's anthology. The Arabic original of each hadith is given immediately after the English translation, but this applies to the main body of the anthology, not to Muslim's introduction.

Imam Muslim divided his anthology into books, each covering an important area of the Islamic faith, such as the Book of Faith, the Book of Prayer, etc. He did not make further classification. It was left to Imam al-Nawawī to divide each book into chapters, and give headings to these. These chapters were later given numbers in *al-Muʿjam al-Mufahras*. The headings and their numbers are given in this translation. However, as many headings tend to be long, I have tried to reduce them while retaining the elements highlighted in the headings. It should be pointed out, however, that some of these chapters are not given numbers. Where no number is given to a chapter in *al-Muʿjam al-Mufahras*, it appears without a number in this translation.

There are a few instances where the same number is given to two consecutive hadiths. In order to indicate that this is not an error, but merely following the Arabic original, the repetition is indicated by the symbol [R].

2. The chain of transmission

Hadith scholars were very specific in their terminology. Therefore, when they used synonymous words, they imparted clear distinction to them. Thus, the words *ḥaddathanā*, *akhbaranā*, *anba'anā*, and *ʿan*, have different

meanings, although linguistically speaking they are very similar and denote receiving information from a named person. However, *ḥaddathanā* is used to refer to a process whereby the teacher reads out the hadith to his students, whether he is narrating from memory or reading out loud directly. *Akhbaranā* and *anba'anā* are practically identical in meaning. However, the first refers to a process whereby a student is reading aloud from his teacher's books in the presence of the teacher. *Anba'anā* does not specify this process, but means that the information was passed on by the teacher or in his presence. *ʿAn*, on the other hand, does not specify any process, nor does it specify that the reporter actually heard the teacher's narration or his student's reading out in his presence. Indeed, it could, thus, mean that the reporter heard the hadith from a colleague who was in the teacher's circle at the time.

In order to reflect these differences, 'narrated' is the term used here for *ḥaddathanā*, 'reported' for *akhbaranā*, 'mentioned' for *anba'anā*, and 'from' for *ʿan*. However, any of the first three ways could involve a one-to-one situation in which the reporter is the only one present with his teacher. In Arabic, this is marked by changing the last letter in the three Arabic words, using 'ī' instead of 'ā'. Thus the words become *ḥaddathanī*, *akhbaranī*, and *anba'anī*. To reflect the difference in the English translation the words 'to me' have been used after 'narrated', 'reported' and 'mentioned' to indicate the one-to-one situation, while the three words on their own indicate the presence of others when the narration took place.

Readers will also note that in some hadiths the chain of transmission includes the mark [H]. This is indicated in Arabic by the use of the letter [Ḥ], and it may occur once, twice, or even more in the chain of transmission of the same hadith. What this signifies is that the hadith is narrated by two or more chains of transmission, but these join up at some stage. Rather than give them separately, repeating the names of reporters from where they join up to the Prophet's companion, Hadith scholars use this way to indicate that the different chains are joined at this point.

Another symbol used in the chain of transmission is [R], but this is much less frequent. It simply indicates that the number given to a particular hadith is repeated, which means that the number has been given to more than one hadith instead of giving each of them a separate number.

Sometimes Muslim narrates a hadith from three of his teachers and uses the word ‘narrated’, but their methods of learning from their teacher whom they quote differ. Muslim is too careful and meticulous to overlook this fact. He makes this clear by immediately adding something like: ‘The first said “narrated” and the other two said “reported”.’

3. Word usage

The usage of some Arabic words need to be explained. The word ‘imam’ is often used in reference to some scholars quoted in this work. It is also used in reference to both Muslim and al-Nawawī. There is, however, a very clear difference in the use of this word by Sunni Muslims and the Shia.

Linguistically speaking, *imām* means ‘leader’ and is often used, particularly in books of Islamic Jurisprudence, or *fiqh*, to refer to the ruler or the head of state, whether he has the title of caliph or some other title. It is also commonly used to refer to the person who leads congregational prayer. In this second usage, there is no difference between the one who leads the prayer and anyone in the congregation, except that the imam leads and the congregation follow.

A far more common usage of the word is as a title of respect added before the name of a scholar who is recognized for his high achievement and scholarship. This is how it is mostly used in this work. It may, however, also be used here in the sense of the ‘leader of congregational prayer’ when this topic is discussed, but as such will be clearly identified at that juncture. A scholar who is considered an imam has no special distinction, apart from what his scholarship gives him; he does not enjoy any special status. It will be noted in this work that the views of some such scholars are outlined, and discussed or rejected. This is clearly a matter of scholarly difference that

does not detract from the high standing of the scholar or the one who differs with him.

The Shia have a totally different concept of ‘imam’. They give this status to twelve people starting with ʿAlī ibn Abī Ṭālib, the Prophet’s cousin, followed by eleven of his descendants through Fāṭimah, his wife and the Prophet’s daughter. To the Shia, those imams were infallible and enjoy a rank that is almost equal to that of the Prophet. Indeed, the way some Shia speak of the third Imam, al-Ḥusayn, the Prophet’s grandson, gives at times the impression that they rank him above the Prophet himself. Moreover, the Shia believe that the twelfth Imam was taken away and did not die: he will return at some point when he will bring justice to the world. This Shia concept is absolutely unacceptable to Sunni Muslims who do not recognize any such status as belonging to anyone.

We speak of a hadith having a chain of transmission and we mention ‘transmitters’. We also use the words ‘reporter’ and ‘narrator’. These three words are used interchangeably and they refer to the people named in the chain of transmission. These have the same status with regard to how the Prophet’s statement or action is taught and learnt. When we use the verb ‘narrate’ we are referring to the action of stating the hadith, whether by reading it out loud or otherwise. However, the word ‘narrate’ is often used in Islamic literature in reference to the works of the leading scholars of Hadith and what they include in their anthologies. Thus, we often see phrases like ‘al-Tirmidhī narrated …’, ‘al-Bukhārī narrated …’. It is felt that it is better to distinguish the mere quoting of a hadith and its entry in an anthology. Therefore we use the word ‘narrate’ to indicate quoting a hadith and the word ‘relate’ to mean the ‘entry in a Hadith anthology’. Thus, we say: ‘al-Bukhārī relates in his *Ṣaḥīḥ*’, or ‘al-Bayhaqī relates in *Shuʿab al-Īmān*’, or ‘al-Nasā’ī relates in *al-Sunan al-Kubrā*’.

The words Abū and Abī are often used in the names of hadith reporters and scholars. These two are the same word, but the endings are case markers according to their position in the sentence. Invariably, Abū is used at the beginning of the sentence and when not preceded by a name, while Abī is used when preceded by the word ‘ibn’. There are other situations that indicate which of the two should be used. Both words mean ‘father of’ and their use indicates an appellation of respect.

The word *mawlā* is used to describe some reporters and other persons mentioned in the commentary. This word is one of the few Arabic words that denote opposite meanings. Linguistically, it means both ‘master’ and ‘slave’, and it is used in the Qur’an to refer to God as the *mawlā* of the believers. When someone is referred to as the *mawlā* may have more than one meaning, he discusses these and showsof another or of a tribe, it most frequently refers to a slave who was set free. He then allied himself with his former master or with his tribe, as this was a recognized practice in Arabia both under Islam and prior to it.

It will be noted that the phrase ‘but God knows best’ is used very frequently in al-Nawawī’s commentary and by the scholars he quotes: this is a mark of humility. They express their views but shy away from presenting these as the true and correct view, to the exclusion of anything different. It is akin to saying that ‘this is what I know, but ultimate knowledge rests with God’.

The word hadith is used with a capital or small ‘h’ and this usage indicates a difference. When it is used with the lower case first letter it refers to a single statement by the Prophet. Hence, the reference to one or more statements by the Prophet is always with the lower case. When it is used with a capital first letter, it refers to the Hadith discipline, which is a

specialized branch of study, concerned with the Prophet's statements, actions and approvals.

4. Arrangement

Imam al-Nawawī discusses three areas in relation to every hadith included in Muslim's anthology: 1) The general meaning of the hadith and its message. He also outlines the important points it includes and highlights any rulings that it stipulates or may be based on it. 2) The chain of transmission: he identifies the different reporters, giving some information about them and their full names if they are mentioned by first name or by appellation. He also highlights any useful point that the chain provides, and explains any subtle point that reflects Muslim's careful and meticulous scholarship. 3) He explains the language of the hadith, stating the meanings of individual words, particularly those that may be unfamiliar to readers or became rarely used. Where a word, phrase or sentence may have more than one meaning, he discusses these and shows which, if any, is unacceptable. However, he does not follow a single pattern in the arrangement of his commentary. Sometimes, he begins by discussing the chain of transmission, but often he discusses the general meaning first. He may also start by explaining the language and the meaning of individual words.

In this English version, liberty has been taken to follow a consistent pattern. The meaning of the hadith is given first and then its explanation, under the subheading 'text explanation', is provided. This is followed with any discussion al-Nawawī gives concerning the chain of transmission, using the subheading 'transmission'. The information al-Nawawī provides about the meaning of individual words and the pronunciation of unfamiliar words and names has been ignored, because these are already reflected in the translation. However, when he discusses alternative meanings, what is considered useful to English readers is included. If it is a matter of pronunciation or a grammatical aspect that does not affect the meaning or the message of the hadith, this has been disregarded.

5. Quotations and references

In his monumental work, al-Nawawī cites numerous quotations from various scholars. At times, he mentions the work from which the quotation is made, but in most cases this is not done. Although his work has been checked and verified several times, and published many times in different countries, none of these undertook the task of checking the original works in order to provide detailed references. There are several reasons for this omission. Many of the original works have not been published, but remain in manuscript form held in different libraries in various countries. Moreover, many of these works are voluminous. For example, al-Nawawī often quotes from Imam al-Ḥaramayn, who wrote a large number of books. As mentioned in the biographical note on Imam al-Ḥaramayn, one of his books is published in twenty-one volumes. Although a discerning scholar may have a good guess as to the book from which a particular quote is taken, finding it may require several hours, if not days of hard work. Imam al-Nawawī died 750 years ago and we cannot blame him for not citing his references according to modern methods of citation. It should be remembered that all the books he read were written in long hand and manuscripts of the same book differed in size, number of pages and style of writing. Readers and students must simply trust to his scholarship and piety with all that he quotes from other scholars. May God bless them all for their meticulous and faithful scholarship.

6. Notes and editorial liberty

In certain cases, it is felt that a note should be added within the text to explain certain points or add a particular perspective. This is not surprising considering that the book was written nearly eight centuries ago. In order to make the addition very clear, it is preceded by the word ‘Note’ and given an independent paragraph.

In a few cases, a sentence is started by mentioning the author’s name before mentioning what he says, such as ‘al-Nawawī considers these

hadiths self-explanatory, adding only …', and in a very few cases, a short comment by the author is not included in the translation, because time has made it irrelevant and including it would be either confusing or require a long explanatory footnote. Since it is unlikely to concern the reader, it is felt that omission is better. Such liberty is taken only in cases where it is felt that had the author lived in our time, he would have approved of such omission.

Adil Salahi
London
February 2019

i. Shaykh Muhammad Rashīd Riḍā gave an English copy of *A Manual of the Early Muhammadan Traditions* by Arent Jan Wensinck, Professor of Arabic and Islam at the University of Leiden in Holland, to one of his regular students, Muhammad Fu'ād ʿAbd al-Bāqī, and asked him to translate it into Arabic. ʿAbd al-Bāqī, who was working as a translator at the Agricultural Bank in Cairo at the time, complied and translated the book, but first he wrote to Wensinck for his permission. Wensinck expressed delight at the idea and also sent ʿAbd al-Bāqī a copy of the first part of a concordance of the Prophet's hadiths that he and other researchers were working on.ʿAbd al-Bāqī reviewed the work and found many mistakes. He made a list of these and sent it to Wensinck, who was delighted with the input and recruited ʿAbd al-Bāqī as editor of the entire *al-Muʿjam al-Mufahras* concordance.

Al-Muʿjam al-Mufahras is published in Arabic in eight volumes and is indispensable for any researcher in Islamic Studies. Words are listed alphabetically, and a short sentence or phrase in which the word occurs is given. Then the hadith which includes the sentence or phrase is referenced to any of the nine anthologies. ʿAbd al-Bāqī's role is acknowledged by Wensinck in the Introduction, and working on this concordance enabled Muhammad Fu'ād ʿAbd al-Bāqī to subsequently undertake his own highly acclaimed concordance of the Qur'an.

BOOK
OF
HAJJ

CHAPTER 82

THE PROHIBITIONS IN MAKKAH

[2898–445]. (Dar al-Salam 3139) Isḥāq ibn Ibrāhīm al-Ḥanẓalī narrated:[i] Jarīr reported; from Manṣūr; from Mujāhid; from Ṭāwūs; from Ibn ʿAbbās. He said: **‘God’s Messenger said on the day of the takeover, the takeover of Makkah: “There shall be no migration, but only jihad and the intention. When you are urged [for jihad], respond”. And he said on the day of the takeover, the takeover of Makkah: “God has made this city a sanctuary on the day when He created the heavens and the earth. It remains sacred by God’s sanctity till the Day of Judgement. Fighting in it was never lawful for anyone before me. It was made lawful to me for a short while on one day. It continues to be sacred by God’s sanctity till the Day of Resurrection. Its thorn may not be cut, its game may not be scared, [nothing] may be picked up except by one who will identify it and its grass may not be mowed”.’**

Al-ʿAbbās said: ‘Messenger of God, except for *idhkhir*: it is used by their labourers and in their homes’. The Prophet said: ‘Except for *idhkhir*’.

حَدَّثَنَا إِسْحَاقُ بْنُ إِبْرَاهِيمَ الْحَنْظَلِيُّ، أَخْبَرَنَا جَرِيرٌ، عَنْ مَنْصُورٍ، عَنْ مُجَاهِدٍ، عَنْ طَاوُسٍ، عَنِ ابْنِ عَبَّاسٍ قَالَ: قَالَ رَسُولُ اللهِ صَلَّى اللهُ

عَلَيْهِ وَسَـلَّمَ يَوْمَ الْفَتْحِ، فَتْحِ مَكَّةَ: «لا هِجْرَةَ، وَلَكِنْ جِهَادٌ وَنِيَّةٌ. وَإِذَا اسْتُنْفِرْتُمْ فَانْفِرُوا». وَقَالَ يَوْمَ الْفَتْحِ، فَتْحِ مَكَّةَ: «إِنَّ هَذَا الْبَلَدَ حَرَّمَهُ اللهُ يَوْمَ خَلَقَ السَّمَوَاتِ وَالأَرْضَ، فَهُوَ حَرَامٌ بِحُرْمَةِ اللهِ إِلَى يَوْمِ الْقِيَامَةِ. وَإِنَّهُ لَمْ يَحِلَّ الْقِتَالُ فِيهِ لأَحَدٍ قَبْلِي، وَلَمْ يَحِلَّ لِي إِلاَّ سَاعَةً مِنْ نَهَارٍ. فَهُوَ حَرَامٌ بِحُرْمَةِ اللهِ إِلَى يَوْمِ الْقِيَامَةِ. لاَ يُعْضَدُ شَوْكُهُ، وَلاَ يُنَفَّرُ صَيْدُهُ، وَلاَ يَلْتَقِطُ إِلاَّ مَنْ عَرَّفَهَا، وَلاَ يُخْتَلَى خَلاَهَا». فَقَالَ الْعَبَّاسُ: يَا رَسُولَ اللهِ إِلاَّ الإِذْخِرَ، فَإِنَّهُ لِقَيْنِهِمْ وَلِبُيُوتِهِمْ . فَقَالَ: «إِلاَّ الإِذْخِرَ».

[2899–000]. (Dar al-Salam 3140) Muhammad ibn Rāfiʿ narrated to me: Yaḥyā ibn Adam narrated; Mufaḍḍal narrated; from Manṣūr; with the same chain of transmission: **the same text, except that he did not say ‘on the day when He created the heavens and the earth’ and he said ‘killing’ instead of ‘fighting’. He also said: ‘It’s find is not picked up except by one who will identify it’.**

وَحَدَّثَنِي مُحَمَّدُ بْنُ رَافِعٍ، حَدَّثَنَا يَحْيَى بْنُ آدَمَ، حَدَّثَنَا مُفَضَّلٌ، عَنْ مَنْصُورٍ، فِي هَذَا الإِسْنَادِ: بِمِثْلِهِ. وَلَمْ يَذْكُرْ: «يَوْمَ خَلَقَ السَّمَوَاتِ وَالأَرْضَ ». وَقَالَ بَدَلَ الْقِتَالِ: «الْقَتْلَ». وَقَالَ: «لاَ يَلْتَقِطُ لُقَطَتَهُ إِلاَّ مَنْ عَرَّفَهَا».

[2900–446]. (Dar al-Salam 3141) Qutaybah ibn Saʿīd narrated:[ii] Layth narrated; from Saʿīd ibn Abi Saʿīd; from Abu Shurayḥ al-ʿAdawī; that he said to ʿAmr ibn Saʿīd as he was preparing an army to send to Makkah: **‘Permit me, Governor, to relate to you some words spoken by God’s Messenger (peace be upon him) on the day after the day of the takeover. I heard it with my ears and**

understood it well, and I saw him when he said it. He praised God and glorified Him, then said: “Makkah is sanctified by God, not by people. It is not permissible for anyone who believes in God and the Last Day to shed blood in it or to fell a tree. If anyone cites the fact that God’s Messenger fought in it, tell him that God permitted His Messenger, but He has not permitted you. He permitted me only for a short while on one day. Today, it has regained its sanctity as it was sanctified yesterday. Let those who are present inform those who are not”.’

Abu Shurayḥ was asked: ‘What did ʿAmr say to you?’ He said: ‘I am better aware of this than you, Abu Shurayḥ. The Ḥaram does not protect a rebel, or someone fleeing the death penalty, or one who is fleeing from punishment for treason’.

حَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ، حَدَّثَنَا لَيْثٌ، عَنْ سَعِيدِ بْنِ أَبِي سَعِيدٍ، عَنْ أَبِي شُرَيْحٍ الْعَدَوِيِّ، أَنَّهُ قَالَ لِعَمْرِو بْنِ سَعِيدٍ وَهُوَ يَبْعَثُ الْبُعُوثَ إِلَى مَكَّةَ: ائْذَنْ لِي أَيُّهَا الأَمِيرُ أُحَدِّثْكَ قَوْلاً قَامَ بِهِ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ الْغَدَ مِنْ يَوْمِ الْفَتْحِ. سَمِعَتْهُ أُذُنَاىَ، وَوَعَاهُ قَلْبِي، وَأَبْصَرَتْهُ عَيْنَاىَ حِينَ تَكَلَّمَ بِهِ. أَنَّهُ حَمِدَ اللهَ وَأَثْنَى ، ثُمَّ قَالَ: «إِنَّ مَكَّةَ حَرَّمَهَا اللهُ، وَلَمْ يُحَرِّمْهَا النَّاسُ. فَلاَ يَحِلُّ لاِمْرِئٍ يُؤْمِنُ بِاللهِ وَالْيَوْمِ الآخِرِ أَنْ يَسْفِكَ بِهَا دَمًا، وَلاَ يَعْضِدَ بِهَا شَجَرَةً. فَإِنْ أَحَدٌ تَرَخَّصَ بِقِتَالِ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فِيهَا، فَقُولُوا لَهُ إِنَّ اللهَ أَذِنَ لِرَسُولِهِ وَلَمْ يَأْذَنْ لَكُمْ. وَإِنَّمَا أَذِنَ لِي فِيهَا سَاعَةً مِنْ نَهَارٍ. وَقَدْ عَادَتْ حُرْمَتُهَا الْيَوْمَ كَحُرْمَتِهَا بِالأَمْسِ، وَلْيُبَلِّغِ الشَّاهِدُ الْغَائِبَ ». فَقِيلَ لأَبِي شُرَيْحٍ: مَا قَالَ لَكَ عَمْرٌو؟

قَالَ: أَنَا أَعْلَمُ بِذَلِكَ مِنْكَ يَا أَبَا شُرَيْحٍ. إِنَّ الْحَرَمَ لاَ يُعِيذُ عَاصِيًا، وَلاَ فَارًّا بِدَمٍ، وَلاَ فَارًّا بِخَرْبَةٍ.

[2901–447]. (Dar al-Salam 3142) Zuhayr ibn Ḥarb and ʿUbaydullāh ibn Saʿīd narrated to me:[iii] both from al-Walīd; Zuhayr said: al-Walīd ibn Muslim narrated; al-Awzāʿī narrated; Yaḥyā ibn Abi Kathīr narrated to me; Abu Salamah (who is Ibn ʿAbd al-Raḥmān) narrated to me; Abu Hurayrah narrated to me. He said: **‘When God, Mighty and Exalted, handed Makkah over to God’s Messenger (peace be upon him), he stood up, addressing the people. He praised God and glorified Him, then said: “God blocked the elephant entry into Makkah, but He left it open to His Messenger and the believers. It was never lawful to invade by anyone before me. It was made lawful to me for a brief period in one day, and it will not be lawful to anyone after me. Its game may not be scared, its thorn may not be cut, what is dropped in it may not be picked up except by one who will publicise it. Anyone who suffers the killing of a kin may choose the better of two options: either to take blood money or to enforce the death penalty”. Al-ʿAbbās said: “Except *idhkhar*, Messenger of God. We use it in our graves and our homes”. God’s Messenger said: “Except *idhkhar*”. Abu Shāh, a man from Yemen, stood up and said: “Write for me, Messenger of God”. The Prophet said: “Write for Abu Shāh”.’**

Al-Walīd said: ‘I said to al-Awzāʿī: “What did he mean by saying, ‘Write for me, Messenger of God’?” He said: “He meant this *khuṭbah*, which he heard from God’s Messenger (peace be upon him)”.’

حَدَّثَنِي زُهَيْرُ بْنُ حَرْبٍ، وَعُبَيْدُ اللهِ بْنُ سَعِيدٍ، جَمِيعًا عَنِ الْوَلِيدِ. قَالَ زُهَيْرٌ: حَدَّثَنَا الْوَلِيدُ بْنُ مُسْلِمٍ، حَدَّثَنَا الأَوْزَاعِيُّ، حَدَّثَنِي يَحْيَى بْنُ أَبِي كَثِيرٍ، حَدَّثَنِي أَبُو سَلَمَةَ (هُوَ ابْنُ عَبْدِ الرَّحْمَنِ)، حَدَّثَنِي أَبُو هُرَيْرَةَ، قَالَ: لَـمَّا فَتَحَ اللهُ عَزَّ وَجَلَّ عَلَى رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ مَكَّةَ، قَامَ فِي النَّاسِ فَحَمِدَ اللهَ وَأَثْنَى عَلَيْهِ. ثُمَّ قَالَ: «إِنَّ اللهَ حَبَسَ عَنْ مَكَّةَ الْفِيلَ، وَسَلَّطَ عَلَيْهَا رَسُولَهُ وَالْـمُؤْمِنِينَ. وَإِنَّهَا لَمْ تَحِلَّ لأَحَدٍ كَانَ قَبْلِي، وَإِنَّهَا أُحِلَّتْ لِي سَاعَةً مِنْ نَهَارٍ، وَإِنَّهَا لَنْ تَحِلَّ لأَحَدٍ بَعْدِي. فَلاَ يُنَفَّرُ صَيْدُهَا، وَلا يُخْتَلَى شَوْكُهَا، وَلا تَحِلُّ سَاقِطَتُهَا إِلاَّ لِمُنْشِدٍ. وَمَنْ قُتِلَ لَهُ قَتِيلٌ فَهُوَ بِخَيْرِ النَّظَرَيْنِ: إِمَّا أَنْ يُفْدَى، وَإِمَّا أَنْ يُقْتَلَ». فَقَالَ الْعَبَّاسُ: إِلاَّ الإِذْخِرَ يَا رَسُولَ اللهِ، فَإِنَّا نَجْعَلُهُ فِي قُبُورِنَا وَبُيُوتِنَا . فَقَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «إِلاَّ الإِذْخِرَ ». فَقَامَ أَبُو شَاهٍ، رَجُلٌ مِنْ أَهْلِ الْيَمَنِ، فَقَالَ: اكْتُبُوا لِي يَا رَسُولَ اللهِ . فَقَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «اكْتُبُوا لأَبِي شَاهٍ ».

قَالَ الْوَلِيدُ: فَقُلْتُ لِلأَوْزَاعِيِّ: مَا قَوْلُهُ اكْتُبُوا لِي يَا رَسُولَ اللهِ؟ قَالَ: هَذِهِ الْخُطْبَةَ الَّتِي سَمِعَهَا مِنْ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ.

[2902–448]. (Dar al-Salam 3143) Isḥāq ibn Manṣūr narrated to me:[iv] ʿUbaydullāh ibn Mūsā reported; from Shaybān; from Yaḥyā; Abu Salamah reported to me; that he heard Abu Hurayrah say: **‘The tribe of Khuzāʿah killed a man from the Layth tribe during the year of the takeover of Makkah, in revenge for one of their men who had been murdered. God’s Messenger was told of this. He mounted his camel and addressed the people. He said: “God blocked the elephant entry into Makkah, but He**

left it open to His Messenger and the believers. It was never lawful to invade by anyone before me and it will not be lawful to anyone after me. It was made lawful to me for a brief period in one day. At this my moment, it is a sanctity. Its thorn may not be cut, and its trees may not be felled, what is dropped in it may not be picked up except by one who will publicise it. Anyone who suffers the killing of a kin may choose the better of two options: either to be given blood money or the people of the killed person enforce just retribution". A man from Yemen, called Abu Shāh said: "Write for me, Messenger of God". He said: "Write for Abu Shāh". A man from the Quraysh said: "Except *idhkhir*. We use it in our homes and our graves". God's Messenger said: "Except *idhkhir*".'

حَدَّثَنِي إِسْحَاقُ بْنُ مَنْصُورٍ، أَخْبَرَنَا عُبَيْدُ اللهِ بْنُ مُوسَى، عَنْ شَيْبَانَ، عَنْ يَحْيَى، أَخْبَرَنِي أَبُو سَلَمَةَ، أَنَّهُ سَمِعَ أَبَا هُرَيْرَةَ، يَقُولُ إِنَّ خُزَاعَةَ قَتَلُوا رَجُلاً مِنْ بَنِي لَيْثٍ عَامَ فَتْحِ مَكَّةَ، بِقَتِيلٍ مِنْهُمْ قَتَلُوهُ. فَأُخْبِرَ بِذَلِكَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، فَرَكِبَ رَاحِلَتَهُ فَخَطَبَ، فَقَالَ: «إِنَّ اللهَ عَزَّ وَجَلَّ حَبَسَ عَنْ مَكَّةَ الْفِيلَ وَسَلَّطَ عَلَيْهَا رَسُولَهُ وَالْـمُؤْمِنِينَ. أَلاَ وَإِنَّهَا لَمْ تَحِلَّ لأَحَدٍ قَبْلِي، وَلَنْ تَحِلَّ لأَحَدٍ بَعْدِي. أَلاَ وَإِنَّهَا أُحِلَّتْ لِي سَاعَةً مِنَ النَّهَارِ، أَلاَ وَإِنَّهَا سَاعَتِي هَذِهِ حَرَامٌ: لا يُخْبَطُ شَوْكُهَا، وَلا يُعْضَدُ شَجَرُهَا، وَلاَ يَلْتَقِطُ سَاقِطَتَهَا إِلاَّ مُنْشِدٌ. وَمَنْ قُتِلَ لَهُ قَتِيلٌ فَهُوَ بِخَيْرِ النَّظَرَيْنِ: إِمَّا أَنْ يُعْطَى - يَعْنِي الدِّيَةَ - وَإِمَّا أَنْ يُقَادَ أَهْلُ الْقَتِيلِ». قَالَ فَجَاءَ رَجُلٌ مِنْ أَهْلِ الْيَمَنِ يُقَالُ لَهُ أَبُو شَاهٍ فَقَالَ: اكْتُبْ لِي يَا رَسُولَ اللهِ . فَقَالَ: «اكْتُبُوا لأَبِي شَاهٍ ». فَقَالَ رَجُلٌ مِنْ قُرَيْشٍ: إِلاَّ

الإِذْخِرَ، فَإِنَّا نَجْعَلُهُ فِي بُيُوتِنَا وَقُبُورِنَا. فَقَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «إِلاَّ الإِذْخِرَ».

Text Explanation

In hadith No. 2898, the Prophet states that there shall be no migration, but jihad and the intention will continue. Scholars say that migration from the land of unbelief to the land of Islam will continue until the Day of Judgement. This statement by the Prophet is explained in two ways. The first is that there shall never be any need to migrate from Makkah after it was taken over by the Prophet, because it became a land of Islam. Migration takes place from a land where Muslims are unsafe or persecuted. This is a miraculous statement by the Prophet as he stated that Makkah will forever remain a land of Islam, and that no one needs to migrate from it. The other explanation is that no migration that occurs after Makkah was taken over will be equal in virtue and reward as the migration that took place before its takeover. This is the same as God saying: ‘Those of you who gave and fought [for God’s cause] before the victory are not like others: they are higher in rank than those who gave and fought afterwards, although God has promised the ultimate good to all of them’. (57: 10) The Prophet adds that jihad and the intention will continue. This means that people have a way to achieve the merits that attend migrating for God’s cause. This is achieved through jihad and the intention to do what is good in all matters and affairs.

The Prophet says in this hadith: ‘If you are urged [for jihad], respond’. This means that if the ruler urges you to join a jihad campaign, you should go. We shall explain the rules that apply to jihad and show the duty part of it at the appropriate place, God willing.

In the same hadith, No. 2898, the Prophet says of Makkah that God made it a sanctuary ‘on the day He created the heavens and the earth’. After this, Muslim mentions some hadiths that say that ‘Abraham established the sanctity of Makkah’. Thus, these hadiths are apparently in conflict. There is indeed a well-known difference of views on this question, which is mentioned by al-Māwardī in his book *al-Aḥkām al-Sulṭāniyyah* and by

other scholars, concerning the time that Makkah was sanctified. Some scholars say that it was sanctified ever since God created the universe, while others say that it was given the same status as the rest of the world until Abraham's time, when it was sanctified. This view is consistent with the second hadith, while the first view is consistent with the first hadith, and it is shared by the majority of scholars. They reconcile the second hadith by saying that its sanctity was clear from the day when the heavens and the earth were created, but then it became unknown and remained so until Abraham's time when he declared it anew and publicised it. Thus, he did not initiate it. Scholars who take the other view reconcile the two hadiths by saying that God wrote in the Imperishable Tablet or somewhere else on the day He created the heavens and the earth that Abraham would sanctify Makkah, by His order, but God knows best.

In the same hadith, No. 2898, the Prophet says: 'It remains sacred by God's sanctity till the Day of Judgement. Fighting in it was never lawful for anyone before me. It was made lawful to me for a short while on one day. It continues to be sacred by God's sanctity till the Day of Resurrection'. In the next hadith, the word 'killing' replaces 'fighting'. And in No. 2900, the Prophet says: 'It is not permissible for anyone who believes in God and the Last Day to shed blood in it or to fell a tree. If anyone cites the fact that God's Messenger fought in it, tell him that God permitted His Messenger, but He has not permitted you. He permitted me only for a short while on one day. Today, it has regained its sanctity as it was sanctified yesterday. Let those who are present inform those who are not'. These hadiths are very clear in prohibiting fighting in Makkah.

In his book *al-Aḥkām al-Sulṭāniyyah*, Imam Abu al-Ḥasan al-Māwardī, who belonged to our Shāfiʿī School, says: 'One of the special rules that apply to the Ḥaram is that its people are not fought. If they are in rebellion, then some scholars say that fighting them is forbidden. Instead, they are harassed until they return to obedience of their rightful ruler. The majority of scholars say that they are fought for their rebellion, if there is no other

way to bring them back into the fold. Fighting rebellious people is one of the rights owed to God and it may not be ignored. To fulfil it in the Ḥaram area is more important than ignoring it'. What al-Māwardī stated as the view of the majority of scholars is certainly the correct view. Al-Shāfiʿī states this view in two places of his book, *al-Umm*. Al-Qaffāl of Marw, a Shāfiʿī scholar, said in his book *Sharḥ al-Talkhīṣ*: 'Fighting in Makkah is not permissible…even if a group of unbelievers fortify themselves in it, we are not permitted to fight them inside Makkah'. However, al-Qaffāl's view is wrong, and I am only mentioning it so that it is not taken as correct.

The answer to this point raised by these hadiths is given by al-Shāfiʿī in his book *Siyar al-Wāqidī*, which is part of his voluminous work, *al-Umm*. He says that the hadiths mean that it is prohibited to attack and fight them with weapons that cause wide-spread damage, such as mangonels, if the situation can be put to right without using them. This is different from all other places where it is permissible to fight enemies who are unbelievers in any way, and with all legitimate weapons, but God knows best.

The hadiths in this chapter give details of what may not be done in Makkah. Thus, we learn that thorny plants may not be cut, green grass may not be mowed, dry grass may not be cut or beaten with sticks so that it drops off. Scholars agree that it is forbidden to cut or fell the trees that people do not normally grow, and that fresh grass is forbidden to cut in anyway. They differ with regard to what people may grow of trees and plants. They also differ with regard to compensation for cutting trees. Mālik said it counts as committing a sin, but no compensation is payable. Al-Shāfiʿī and Abu Ḥanīfah say that a compensation is payable, but they differ on its amount. Al-Shāfiʿī said that the compensation for a large tree is a cow, while a sheep is sufficient for a small tree. This is also reported from Ibn ʿAbbās and Ibn al-Zubayr, and stated by Ahmad, while Abu Ḥanīfah says that all such trees are compensated for according to their respective values. Al-Shāfiʿī said that the compensation for cutting fresh grass is determined by its value. According to al-Shāfiʿī and other scholars, it is

permissible to let animals graze in the meadows of the Ḥaram area, while Abu Ḥanīfah, Ahmad and Muhammad say it is not permissible. As for hunting, it is unanimously agreed that it is forbidden to all people, whether they are in *iḥrām* or not. If a person kills a game animal, compensation is obligatory according to all scholars, except Dāwūd who says that it is a sin, but no particular punishment is enforceable. If a game animal comes into the Ḥaram area from outside it, then according to our Shāfiʿī School, Mālik and Dāwūd, it is permissible to slaughter, eat and dispense with it in other ways. Abu Ḥanīfah and Ahmad said that it is not permissible to kill or do anything with it other than set it free. However, if it is brought into the Ḥaram area after having been killed, it is permissible to eat. They base this ruling on analogy with the case of a person in *iḥrām*. In support of their view, our scholars cite the evidence derived from the hadith in which the Prophet asked a young boy: ‘Abu ʿUmayr, what has the little bird done?’ as well as drawing an analogy with bringing into the Ḥaram area a tree or some grass from outside. Moreover, it is not game hunted in the Ḥaram area.

The hadiths mention that thorny plants that grow in the Ḥaram area may not be cut. This serves as evidence in support of the view that all vegetation, whether trees, shrubs or grass, in the Ḥaram area are forbidden to cut, including thorny plants that may hurt. This is the view chosen by al-Mutawallī, a well-known Shāfiʿī scholar. However, the majority of our scholars say that thorny plants are not forbidden to cut because they are harmful. As such, they belong to the same status as the five harmful animals [that are permissible to kill in the Ḥaram]. They limit the import of the hadith on the basis of analogy. However, the correct view is that of al-Mutawallī, but God knows best.

The Prophet says that fighting in Makkah was not permitted to anyone before him, and it was permitted for him for only a short period during one day. This statement is cited in support of the view that Makkah was taken over by force. This is the view of Abu Ḥanīfah and many, or rather the

majority of scholars. However, al-Shāfiʿī and other scholars say that the takeover of Makkah was peaceful. They explain this hadith as meaning that fighting in Makkah was permissible for him and that he would have resorted to fighting if it had been necessary, but he did not have to, but God knows best.

In hadith No. 2898, the Prophet says: ‘Its game may not be scared’. This makes it clear that scaring game animals to drive them away from their places is not permissible. A person who scares such animals commits a sin, whether the animal dies or not. However, if the animal dies during its escape and before it finds a refuge, the one who scares it incurs an indemnity. Otherwise, no indemnity is payable. Scholars say that the Prophet mentions scaring a game animal so as to alert believers to the prohibition of causing the death of the animal or other damage. If scaring is prohibited, killing is more so.

In the same hadith, the Prophet says that it is not permissible to pick up what is dropped by others, except by someone intending to identify it to the public. The hadith means that it is not permissible to pick up such an article if one intends to publicize it for a year and if no one claims it during this time, it becomes his property. This is the rule concerning what is found anywhere else, but in Makkah it is only permissible to pick up what is dropped if one intends to publicize it for all time and never to make it his own property. Mālik said that it is permissible to own such an article if it remained unclaimed after one year publicity, as is the rule in other places. A number of Shāfiʿī scholars share this view and give some interpretations of the hadith, but these are lacking in evidence.

In the same hadith, the Prophet makes an exception of *idhkhir*, which is a plant with a pleasant smell. Al-ʿAbbās, who requested this exception, said that it was needed by labourers and in people’s homes, while in the hadith No. 2901 its use is stated as being in homes and graves. The labourers referred to were blacksmiths and jewellery manufacturers and they used this to light their fires. It was also used in graves to fill up holes between mud

bricks and within a home, it was used on roofs. The Prophet responds to the request and makes the exception of *idhkhir*. This is understood to mean that he immediately received revelations to make this exception, or that the revelation was given to him earlier, in the form of agreeing to the exception if requested by anyone, or that he gave this ruling on the basis of personal scholarly discretion, but God knows best.

In hadith No. 2900, the narrator Abu Sharīḥ al-ʿAdawī says to the governor of Madinah as he was preparing an army to send to Makkah where it was to fight against ʿAbdullāh ibn al-Zubayr that he wanted to tell him a hadith he had heard from the Prophet. He says: 'I heard it with my ears and understood it well, and I saw him when he said it'. He put it in this way to emphasize that he was fully certain of his accurate memorization of what he heard the Prophet say, and where and when he said it. The Prophet said: 'Makkah is sanctified by God, not by people'. This means that its sanctity was ordained by Divine revelation, not by agreement amongst people on the basis of no Divine order.

The Prophet says: 'It is not permissible for anyone who believes in God and the Last Day to shed blood in it or to fell a tree'. This may be cited as evidence in support of the view that unbelievers are not required to observe the detailed Islamic legislation. The correct view of our school and other scholars is that they are required to observe them as they are required to believe in the essential principles of Islam.[v] The Prophet said, 'It is not permissible for anyone who believes in God and the Last Day…', because it is such that a believer who observes our rulings, refrains from what Islam forbids and implements its principles. Hence, the Prophet refers to such people. There is nothing in the hadith to suggest that an unbeliever is not required to observe its details.

The Prophet adds: 'If anyone cites the fact that God's Messenger fought in it, tell him that God permitted His Messenger, but He has not permitted you. He permitted me only for a short while on one day. Today, it has regained its sanctity as it was sanctified yesterday'. This provides evidence

in support of the view that Makkah was taken over by force. We have already discussed in this chapter the different views on this point. Those who understand that Makkah was taken over peacefully understand this hadith as meaning that the Prophet entered Makkah ready to fight, if the need arose. This is the evidence for its permissibility to the Prophet at that particular time. The Prophet then said: ‘Let those who are present inform those who are not’. This requirement is mentioned in several hadiths. It is clear that knowledge should be spread, Islamic rulings should be transmitted, and people should be made aware of them. ʿAmr ibn Responding to Abu Sharīḥ, Saʿīd said that the Ḥaram does not give protection to a rebel or to someone trying to escape punishment for a major sin.

In hadith No. 2901 and No. 2902 the Prophet mentions the case of a person who is killed. He says: ‘Anyone who suffers the killing of a kin may choose the better of two options: either to take blood money or to enforce the death penalty’. This means that the victim’s next of kin has a choice of either enforcing the death penalty in just retribution or of taking blood money. This is clear evidence supporting the view of al-Shāfiʿī and other scholars who give the next of kin this choice, whereby he can determine either course of punishment to be enforced. This view is shared by Saʿīd ibn al-Musayyib, Ibn Sīrīn, Ahmad, Isḥāq and Abu Thawr. On the other hand, Mālik said that the victim’s next of kin has the choice of either enforcing the death penalty or extending a pardon. He does not have the choice of blood money except by the offender’s agreement. This is contrary to the text of this hadith.

The hadith also provides evidence in support of those who say that a killer must incur either just retribution, i.e., the death penalty, or the payment of blood money. This is one of two views expressed by al-Shāfiʿī. His other view is that he incurs just retribution only. Blood money is incurred on the basis of choice. The benefit of such difference of views becomes apparent in certain situations, such as the case when the next of

kin forgoes enforcing the death penalty. If we say that the incurred punishment is one of the two options, then when the death penalty is forgone, blood money becomes enforceable. If we say that the punishment is just retribution and this is forgone, then neither is incurred. This hadith is understood to apply to deliberate murder. The death penalty is not incurred as just retribution except in the case of deliberate murder.

These two hadiths mention the case of Abu Shāh. His name is unknown, and he is only known by his appellation, i.e., *kunyah*. The Prophet grants his request to have the information written for him. It is clear, therefore, that it is permissible to write down Islamic information other than the Qur'an. The same may be said about the hadith narrated by ʿAlī: 'He has nothing other than what is in this scroll', and Abu Hurayrah's hadith: 'ʿAbdullāh ibn ʿUmar used to write and I did not write'. There are some hadiths that order not to write anything other than the Qur'an. Therefore, some scholars of the earliest generations prevented the writing of information. The majority of early scholars were of the view that all knowledge may be committed to writing. Later, the Muslim community unanimously agreed that such writing is desirable. The hadiths mentioning its prohibition are answered in two ways. The first is that they were subsequently abrogated. The prohibition occurred during the initial period, before the Qur'an was known to all. Writing anything other than the Qur'an was prohibited for fear that it might be confused with the Qur'an. When the Qur'an was well known, writing other knowledge was permitted. The second is that the order not to write was merely meant for those who were reliable in their memorization. They were ordered not to write so that they would not rely on writing, without memorizing what they had learnt. Writing was at the same time permitted to those who could not rely on their memory, but God knows best.

Transmission

In its chain of transmission, hadith No. 2900 includes Abu Sharīḥ al-ʿAdawī. This is how his name is mentioned in this hadith in both *Ṣaḥīḥ* anthologies of al-Bukhari and Muslim. However, he is also described as al-Kaʿbī and al-Khuzāʿī. His name is variously given as Khuwaylid ibn ʿAmr, or ʿAmr ibn Khuwaylid, or ʿAbd al-Raḥmān ibn ʿAmr, or Hāni' ibn ʿAmr. He embraced Islam before the takeover of Makkah and died in Madinah in year 68 AH, 688 CE.

i. Related by al-Bukhari, 1349, 1587, 1834, 2783, 2825, 3077 and 3189; Abu Dāwūd in similar wording, 2018 and 2480; al-Tirmidhī, 1590; al-Nasā'ī, 2874, 2875 and 4181.

ii. Related by al-Bukhari, 104, 1832 and 4295; al-Tirmidhī, 809 and 1406; al-Nasā'ī in a shorter version, 2876.

iii. Related by al-Bukhari, 2434; Abu Dāwūd, 2017, 3649, 3650 and 4505; al-Tirmidhī, 1405 and in a shorter version, 2667; al-Nasā'ī, 4799, 4800 and in a shorter version, 4801; Ibn Mājah, 2624.

iv. Related by al-Bukhari, 112 and 6880.

v. Scholars have different views regarding this point, with some saying that even unbelievers are required to observe Islamic principles and rulings, while others take the opposite view.

CHAPTER 83

THE PROHIBITION OF CARRYING ARMS IN MAKKAH

[2903–449]. (Dar al-Salam 3144) Salamah ibn Shabīb narrated to me: Ibn Aʿyan narrated; Maʿqil narrated; from Abu al-Zubayr; from Jābir. He said: **‘I heard God’s Messenger (peace be upon him) say: “It is not permissible for any of you to carry arms in Makkah”.’**

حَدَّثَنِي سَلَمَةُ بْنُ شَبِيبٍ، حَدَّثَنَا ابْنُ أَعْيَنَ، حَدَّثَنَا مَعْقِلٌ، عَنْ أَبِي الزُّبَيْرِ، عَنْ جَابِرٍ، قَالَ سَمِعْتُ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ يَقُولُ: «لا يَحِلُّ لأَحَدِكُمْ أَنْ يَحْمِلَ بِمَكَّةَ السِّلاَحَ».

Text Explanation

In this hadith the Prophet makes it clear that one must not carry arms in Makkah. This is understood to apply when there is no need. If there is need, it is permissible. This is our view and the view of the great majority of scholars. *Qadi* ʿIyāḍ said: ‘According to scholars, this is understood to apply to carrying arms when there is no need. If need is there, it is permissible. This is the view of Mālik, al-Shāfiʿī and ʿAṭā’. However, al-Ḥasan al-Baṣrī considers it reprehensible, i.e., *makrūh*, in view of the apparent meaning of the hadith. The view of the majority of scholars is based on the fact that the Prophet entered Makkah for his compensatory ʿumrah with his companions, carrying their swords in their sheaths as stipulated in the al-Ḥudaybiyah peace agreement. In the year of the takeover of Makkah, he entered ready to fight. ʿIkrimah has a different opinion saying that if a person needs to carry arms, he may do so, but he incurs an indemnity. Perhaps he meant a person who is in a state of *iḥrām* and he wears a shield or body armour. If this is his meaning, then he is not in disagreement with the majority, but God knows best.

CHAPTER 84

THE PERMISSIBILITY OF ENTERING MAKKAH WITHOUT CONSECRATION

[2904–450]. (Dar al-Salam 3145) ʿAbdullāh ibn Maslamah al-Qaʿnabī, Yaḥyā ibn Yaḥyā and Qutaybah ibn Saʿīd narrated:[i] (Al-Qaʿnabī said: I read out to Mālik ibn Anas, while Qutaybah said: Mālik narrated) and Yaḥyā said (his text): **‘I said to Mālik: “Did Ibn Shihāb narrate to you from Anas ibn Mālik that ‘The Prophet entered Makkah in the year of the takeover wearing a helmet? When he took it off a man came to him and said: “Ibn Khaṭal is holding on to the covers of the Kaʿbah”, and the Prophet said: “Kill him”.’ Mālik said: “Yes”.’**

حَدَّثَنَا عَبْدُ اللهِ بْنُ مَسْلَمَةَ الْقَعْنَبِيُّ، وَيَحْيَى بْنُ يَحْيَى، وَقُتَيْبَةُ بْنُ سَعِيدٍ. أَمَّا الْقَعْنَبِيُّ فَقَالَ: قَرَأْتُ عَلَى مَالِكِ بْنِ أَنَسٍ، وَأَمَّا قُتَيْبَةُ فَقَالَ حَدَّثَنَا مَالِكٌ. وَقَالَ يَحْيَى (وَاللَّفْظُ لَهُ) قُلْتُ لِـمَالِكٍ: أَحَدَّثَكَ ابْنُ شِهَابٍ عَنْ أَنَسِ بْنِ مَالِكٍ أَنَّ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ دَخَلَ مَكَّةَ عَامَ الْفَتْحِ وَعَلَى رَأْسِهِ مِغْفَرٌ، فَلَـمَّا نَزَعَهُ جَاءَهُ رَجُلٌ فَقَالَ: ابْنُ خَطَلٍ مُتَعَلِّقٌ بِأَسْتَارِ الْكَعْبَةِ . فَقَالَ: «اقْتُلُوهُ ». فَقَالَ مَالِكٌ: نَعَمْ.

[2905–451]. (Dar al-Salam 3146) Yaḥyā ibn Yaḥyā al-Tamīmī and Qutaybah ibn Saʿīd al-Thaqafī narrated:[ii] Muʿāwiyah ibn ʿAmmār

al-Duhnī (Yaḥyā said: ‘reported’ and Qutaybah said: ‘narrated’); from Abu al-Zubayr; from Jābir ibn ʿAbdullāh al-Anṣārī; that **‘God’s Messenger (peace be upon him) entered Makkah (but Qutaybah said: entered on the day of the takeover of Makkah) wearing a black turban, without *iḥrām*’.**

In Qutaybah’s narration: Abu al-Zubayr narrated from Jābir.

حَدَّثَنَا يَحْيَى بْنُ يَحْيَى التَّمِيمِيُّ، وَقُتَيْبَةُ بْنُ سَعِيدٍ الثَّقَفِيُّ، (قَالَ يَحْيَى أَخْبَرَنَا وَقَالَ قُتَيْبَةُ حَدَّثَنَا) مُعَاوِيَةُ بْنُ عَمَّارٍ الدُّهْنِيُّ، عَنْ أَبِي الزُّبَيْرِ، عَنْ جَابِرِ بْنِ عَبْدِ اللهِ الأَنْصَارِيِّ، أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ دَخَلَ مَكَّةَ - وَقَالَ قُتَيْبَةُ دَخَلَ يَوْمَ فَتْحِ مَكَّةَ - وَعَلَيْهِ عِمَامَةٌ سَوْدَاءُ، بِغَيْرِ إِحْرَامٍ .

وَفِي رِوَايَةِ قُتَيْبَةَ قَالَ حَدَّثَنَا أَبُو الزُّبَيْرِ عَنْ جَابِرٍ.

[2906–000]. (Dar al-Salam 3147) ʿAlī ibn Ḥakīm al-Awdī narrated:[iii] Sharīk reported; from ʿAmmār al-Duhnī; from Abu al-Zubayr; from Jābir ibn ʿAbdullāh; that **‘The Prophet (peace be upon him) entered on the day of his takeover of Makkah wearing a black turban’.**

حَدَّثَنَا عَلِيُّ بْنُ حَكِيمٍ الأَوْدِيُّ، أَخْبَرَنَا شَرِيكٌ، عَنْ عَمَّارٍ الدُّهْنِيِّ، عَنْ أَبِي الزُّبَيْرِ، عَنْ جَابِرِ بْنِ عَبْدِ اللهِ، أَنَّ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ دَخَلَ يَوْمَ فَتْحِ مَكَّةَ وَعَلَيْهِ عِمَامَةٌ سَوْدَاءُ.

[2907–452]. (Dar al-Salam 3148) Yaḥyā ibn Yaḥyā and Isḥāq ibn Ibrāhīm narrated:[iv] both said: Wakīʿ reported; from Musāwir al-Warrāq; from Jaʿfar ibn ʿAmr ibn Ḥurayth; from his father; that

‘God’s Messenger (peace be upon him) addressed the people, wearing a black turban’.

حَدَّثَنَا يَحْيَى بْنُ يَحْيَى، وَإِسْحَاقُ بْنُ إِبْرَاهِيمَ، قَالا: أَخْبَرَنَا وَكِيعٌ، عَنْ مُسَاوِرٍ الْوَرَّاقِ، عَنْ جَعْفَرِ بْنِ عَمْرِو بْنِ حُرَيْثٍ، عَنْ أَبِيهِ، أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ خَطَبَ النَّاسَ وَعَلَيْهِ عِمَامَةٌ سَوْدَاءُ.

[2908–453]. (Dar al-Salam 3149) Abu Bakr ibn Abi Shaybah and al-Ḥasan al-Ḥulwānī narrated: both said: Abu Usāmah narrated; from Musāwir al-Warrāq; he said: Jaʿfar ibn ʿAmr ibn Ḥurayth narrated to me (but in al-Ḥulwānī’s narration: I heard Jaʿfar…); from his father. He said: **‘I can almost see God’s Messenger (peace be upon him) standing on the platform, wearing a black turban, letting its two ends down on his shoulders’.**

Abu Bakr did not say: **‘standing on the platform’.**

وَحَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، وَالْحَسَنُ الْحُلْوَانِيُّ، قَالا: حَدَّثَنَا أَبُو أُسَامَةَ، عَنْ مُسَاوِرٍ الْوَرَّاقِ، قَالَ حَدَّثَنِي وَفِي رِوَايَةِ الْحُلْوَانِيِّ قَالَ سَمِعْتُ جَعْفَرَ بْنَ عَمْرِو بْنِ حُرَيْثٍ، عَنْ أَبِيهِ، قَالَ: كَأَنِّي أَنْظُرُ إِلَى رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ عَلَى الْمِنْبَرِ، وَعَلَيْهِ عِمَامَةٌ سَوْدَاءُ قَدْ أَرْخَى طَرَفَيْهَا بَيْنَ كَتِفَيْهِ . وَلَمْ يَقُلْ أَبُو بَكْرٍ عَلَى الْمِنْبَرِ.

Text Explanation

Hadith No. 2904 mentions that the Prophet entered Makkah wearing a helmet while in the other hadiths he is mentioned as wearing a black turban. *Qadi* ʿIyāḍ said: ‘The two versions may be reconciled by saying that he was wearing the helmet when he first entered Makkah, but later removed the helmet and put on his black turban. This is based on hadith No. 2907, which says that the Prophet ‘addressed the people wearing a black turban’. When Makkah was completely taken over, the Prophet addressed the people standing close to the door of the Kaʿbah.

Hadith No. 2905 mentions that the Prophet ‘entered Makkah without *iḥrām*’. This serves as evidence in support of the view that it is permissible to enter Makkah without *iḥrām*, by anyone who does not intend to perform the hajj or the ʿumrah. This applies to one who enters frequently, such as the one who fetches firewood, grass or water into Makkah, or a hunter, or one who comes occasionally, such as one doing some temporary business or paying a visit to some people, and it also applies to one who is in a state of fear or security. This is the more correct of the two views expressed by al-Shāfiʿī, and it is the one his disciples state as their ruling. The other view is that it is not permissible to enter Makkah without *iḥrām* if one does not need to enter frequently, except for a fighter or one who is in fear of being involved in a fight, or one who is chased by an oppressor and fears to be identified. *Qadi* ʿIyāḍ reports something of this sort expressed by the majority of scholars.

In hadith No. 2904, someone tells the Prophet that ‘Ibn Khaṭal was holding on to the covers of the Kaʿbah’ and the Prophet then ordered that he should be killed. Scholars said that the Prophet ordered his killing because he was a Muslim who had renounced Islam and killed his servant who was a Muslim. He further used to verbally abuse the Prophet and encouraged his two maids to sing poems of abuse about the Prophet and the Muslims. It may be said that the other hadith declared that ‘whoever enters the Mosque

is safe’. So, why did the Prophet order Ibn Khaṭal’s killing when he was holding onto the covers of the Kaʿbah? The answer is that this person was not given the pledge of security. He, as well as Ibn Abi Sarḥ and the two maids, were excepted. The Prophet ordered his killing even though he had been found holding on to the covers of the Kaʿbah, as clearly stated in other hadiths. It is further said that Ibn Khaṭal was killed because he did not fulfil the agreed pledge and he subsequently fought. This hadith gives an argument in support of the view of Mālik, al-Shāfiʿī and other scholars that it is permissible to enforce mandatory punishment and just retributions in Makkah and the Ḥaram area. Abu Ḥanīfah said that this is not permissible. They take this hadith to mean that Ibn Khaṭal was killed within the brief period when fighting in Makkah was permitted for the Prophet. Our scholars respond to this argument by saying that fighting in Makkah was permitted to the Prophet at the time of entry. Once Makkah was under his authority and its people submitted to him, the permission was withdrawn. Ibn Khaṭal was killed after that, but God knows best.

Ibn Khaṭal’s name was ʿAbd al-ʿUzzā. Muhammad ibn Isḥāq said that his name was ʿAbdullāh. Al-Kalbī said that his name was Ghālib ibn ʿAbdullāh ibn ʿAbd Manāf ibn Asʿad ibn Jābir ibn Kathīr ibn Taym ibn Ghālib. Other historians cite his name as Saʿd ibn Ḥurayth, but God knows best.

In all the hadiths in this chapter, except the first, the Prophet is said to be wearing a black turban. This makes it clear that it is permissible to wear black garments, even when delivering a *khuṭbah* or sermon, although white garments are preferable, as clearly indicated by the hadith that says: ‘Your best clothes are the white ones’. The Prophet wore a black turban on this occasion to show that this is permissible, but God knows best.

Transmission

In the chain of transmission of hadith No. 2904 we read: ‘Al-Qaʿnabī said: I read out to Mālik ibn Anas… and Yaḥyā said: “I said to Mālik: ‘Did Ibn Shihāb narrate to you from Anas ibn Mālik that…’”.’ Then at the end of the hadith: ‘He said: “Yes”.’ He meant that Mālik said ‘yes’ in answer to the question of whether Ibn Shihāb narrated it to Mālik on Anas’ authority. In both *Ṣaḥīḥ* anthologies, something similar to this question is stated in numerous places without adding the answer ‘yes’ at the end. Scholars differ as to whether it is necessary to provide this answer in such cases. They cite the case of a student reciting to his teacher and asking: ‘Did so-and-so tell you this’, when the teacher is listening, understanding what is being recited, and giving no negative response. Some scholars of the Shāfiʿī School and some of the Ẓāhirī School say that it is a must for a correct transmission. If the teacher does not say the answer ‘yes’, the student’s reception of the hadith is incorrect. The great majority of scholars of Hadith, Fiqh and methodology say that it is desirable for the teacher to say ‘yes’ when he is asked this question, but it is not a condition that he should say anything. It is sufficient for the correct reception of the hadith that the teacher remains silent in this condition. The apparent situation is thus sufficient because it is not permissible to allow someone to remain in error in such a case. *Qadi* ʿIyāḍ said: ‘This is the view of all scholars. Scholars of the early generations who said ‘yes’ only did so in confirmation, not to meet a condition’.

The chain of transmission of hadith No. 2905 includes the narrator Muʿāwiyah ibn ʿAmmār al-Duhnī. His surname is by affiliation to Duhn, a branch of the Bujaylah tribe. ‘Al-Duhnī’ is the better-known pronunciation of the surname, but it is also pronounced as ‘al-Duhanī’, as reported by al-Samʿānī in his book *al-Ansāb* and by ʿAbd al-Ghanī al-Maqdisī.

i. Related by al-Bukhari, 1846, 3044, 4286 and in a shorter version, 5808; Abu Dāwūd, 2685; al-Tirmidhī, 1693; al-Nasā'ī, 2867 and 2868; Ibn Mājah, 2085.
ii. Related by al-Nasā'ī, 2869 and 5359.
iii. Related by al-Tirmidhī, 1679; al-Nasā'ī, 5360.
iv. Related by Abudd, 4077; al-Nasā'ī, 5358 and in a shorter version, 5361; Ibn Mājah, 1104, 2821, 3584 and 3587.

CHAPTER 85

THE STATUS AND SANCTITY OF MADINAH

[2909–454]. (Dar al-Salam 3150) Qutaybah ibn Saʿīd narrated:[i] ʿAbd al-ʿAzīz (meaning Ibn Muhammad al-Darāwardī) narrated; from ʿAmr ibn Yaḥyā al-Māzinī; from ʿAbbād ibn Tamīm; from his uncle ʿAbdullāh ibn Zayd ibn ʿĀṣim; that God's Messenger (peace be upon him) said: **'Abraham established the sanctity of Makkah and prayed for its people. I establish the sanctity of Madinah as Abraham did with Makkah. I have prayed for [the blessing] of its measures as double what Abraham prayed for the people of Makkah'.**

حَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ، حَدَّثَنَا عَبْدُ الْعَزِيزِ (يَعْنِي ابْنَ مُحَمَّدٍ الدَّرَاوَرْدِيَّ)، عَنْ عَمْرِو بْنِ يَحْيَى الْـمَازِنِيِّ، عَنْ عَبَّادِ بْنِ تَمِيمٍ، عَنْ عَمِّهِ عَبْدِ اللهِ بْنِ زَيْدِ بْنِ عَاصِمٍ، أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: «إِنَّ إِبْرَاهِيمَ حَرَّمَ مَكَّةَ وَدَعَا لأَهْلِهَا، وَإِنِّي حَرَّمْتُ الْـمَدِينَةَ كَمَا حَرَّمَ إِبْرَاهِيمُ مَكَّةَ، وَإِنِّي دَعَوْتُ فِي صَاعِهَا وَمُدِّهَا بِمِثْلَىْ مَا دَعَا بِهِ إِبْرَاهِيمُ لأَهْلِ مَكَّةَ».

[2910–455]. (Dar al-Salam[ii]) Abu Kāmil al-Jaḥdarī narrated to me: ʿAbd al-ʿAzīz (meaning Ibn al-Mukhtār) narrated [H]. Also, Abu Bakr ibn Abi Shaybah narrated; Khālid ibn Makhlad narrated; Sulaymān ibn Bilāl narrated to me [H]. And Isḥāq ibn Ibrāhīm

narrated; al-Makhzūmī reported; Wuhayb narrated; all of them from ʿAmr ibn Yaḥyā (who is al-Māzinī); with the same chain of transmission: **the same text, but Wuhayb's narration is the same as al-Darāwardī's: 'as double what Abraham prayed', while Sulyman ibn Bilāl's and ʿAbd al-ʿAzīz ibn al-Mukhtār's narrations say: 'as what Abraham prayed'.**

وَحَدَّثَنِيهِ أَبُو كَامِلٍ الْجَحْدَرِيُّ، حَدَّثَنَا عَبْدُ الْعَزِيزِ (يَعْنِي ابْنَ الْـمُخْتَارِ)، ح. وَحَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا خَالِدُ بْنُ مَخْلَدٍ، حَدَّثَنِي سُلَيْمَانُ بْنُ بِلاَلٍ، ح. وَحَدَّثَنَاهُ إِسْحَاقُ بْنُ إِبْرَاهِيمَ، أَخْبَرَنَا الْـمَخْزُومِيُّ، حَدَّثَنَا وُهَيْبٌ، كُلُّهُمْ عَنْ عَمْرِو بْنِ يَحْيَى (هُوَ الْـمَازِنِيُّ)، بِهَذَا الإِسْنَادِ. أَمَّا حَدِيثُ وُهَيْبٍ فَكَرِوَايَةِ الدَّرَاوَرْدِيِّ: «بِمِثْلَىْ مَا دَعَا بِهِ إِبْرَاهِيمُ ». وَأَمَّا سُلَيْمَانُ بْنُ بِلاَلٍ وَعَبْدُ الْعَزِيزِ بْنُ الْـمُخْتَارِ فَفِي رِوَايَتِهِمَا: «مِثْلَ مَا دَعَا بِهِ إِبْرَاهِيمُ».

[2911–456]. (Dar al-Salam 3151) Qutaybah ibn Saʿīd narrated: Bakr (meaning Ibn Muḍar) narrated; from Ibn al-Hād; from Abu Bakr ibn Muhammad; from ʿAbdullāh ibn ʿAmr ibn ʿUthmān; from Rāfiʿ ibn Khadīj who said: **'God's Messenger (peace be upon him) said: "Abraham established the sanctity of Makkah and I establish the sanctity of [the area] between its two black-stone areas [meaning Madinah]".'**

وَحَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ، حَدَّثَنَا بَكْرٌ (يَعْنِي ابْنَ مُضَرَ)، عَنِ ابْنِ الْهَادِ، عَنْ أَبِي بَكْرِ بْنِ مُحَمَّدٍ، عَنْ عَبْدِ اللهِبْنِ عَمْرِو بْنِ عُثْمَانَ، عَنْ رَافِعِ بْنِ خَدِيجٍ، قَالَ: قَالَ رَسُولُ اللهِصَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «إِنَّ إِبْرَاهِيمَ حَرَّمَ مَكَّةَ وَإِنِّي أُحَرِّمُ مَا بَيْنَ لاَبَتَيْهَا». يُرِيدُ الْـمَدِينَةَ.

[2912–457]. (Dar al-Salam 3152) ʿAbdullāh ibn Maslamah ibn Qaʿnab narrated: Sulaymān ibn Bilāl narrated; from ʿUtbah ibn Muslim; from Nāfiʿ ibn Jubayr; that **‘Marwān ibn al-Ḥakam addressed the people and mentioned Makkah in his speech, referring to its people and its sanctity. He did not mention Madinah or its people and sanctity. Rāfiʿ ibn Khadīj called out to him, saying: “How come I hear you mention Makkah, its people and sanctity, but you make no reference to Madinah, its people and sanctity, while God’s Messenger (peace be upon him) established the sanctity of [the area] between its two black-stone areas? We have it written on a Khawlānī leather scroll, and I can show it to you to read, if you wish”. Marwān was silent for a while then said: “I heard some of this mentioned”.’**

وَحَدَّثَنَا عَبْدُ اللهِ بْنُ مَسْلَمَةَ بْنِ قَعْنَبٍ، حَدَّثَنَا سُلَيْمَانُ بْنُ بِلاَلٍ، عَنْ عُتْبَةَ بْنِ مُسْلِمٍ، عَنْ نَافِعِ بْنِ جُبَيْرٍ، أَنَّ مَرْوَانَ بْنَ الْحَكَمِ، خَطَبَ النَّاسَ فَذَكَرَ مَكَّةَ وَأَهْلَهَا وَحُرْمَتَهَا، وَلَمْ يَذْكُرِ الْـمَدِينَةَ وَأَهْلَهَا وَحُرْمَتَهَا. فَنَادَاهُ رَافِعُ بْنُ خَدِيجٍ، فَقَالَ: مَا لِي أَسْمَعُكَ ذَكَرْتَ مَكَّةَ وَأَهْلَهَا وَحُرْمَتَهَا، وَلَمْ تَذْكُرِ الْـمَدِينَةَ وَأَهْلَهَا وَحُرْمَتَهَا؟ وَقَدْ حَرَّمَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ مَا بَيْنَ لاَبَتَيْهَا، وَذَلِكَ عِنْدَنَا فِي أَدِيمٍ خَوْلاَنِيٍّ، إِنْ شِئْتَ أَقْرَأْتُكَهُ . قَالَ فَسَكَتَ مَرْوَانُ ثُمَّ قَالَ: قَدْ سَمِعْتُ بَعْضَ ذَلِكَ.

[2913–458]. (Dar al-Salam 3153) Abu Bakr ibn Abi Shaybah and ʿAmr al-Nāqid narrated: both from Abu Ahmad. Abu Bakr said: Muhammad ibn ʿAbdullāh al-Asdī narrated; Sufyān narrated; from Abu al-Zubayr; from Jābir who said: **‘God’s Messenger (peace be**

upon him) said: “Abraham established the sanctity of Makkah, and I establish the sanctity of Madinah in between its two black-stone areas: none of its trees may be cut and no game may be hunted in it”.’

حَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، وَعَمْرٌو النَّاقِدُ، كِلاَهُمَا عَنْ أَبِي أَحْمَدَ. قَالَ أَبُو بَكْرٍ: حَدَّثَنَا مُحَمَّدُ بْنُ عَبْدِ اللهِ الأَسْدِيُّ، حَدَّثَنَا سُفْيَانُ، عَنْ أَبِي الزُّبَيْرِ، عَنْ جَابِرٍ، قَالَ: قَالَ النَّبِيُّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «إِنَّ إِبْرَاهِيمَ حَرَّمَ مَكَّةَ، وَإِنِّي حَرَّمْتُ الْـمَدِينَةَ: مَا بَيْنَ لاَبَتَيْهَا، لاَ يُقْطَعُ عِضَاهُهَا، وَلاَ يُصَادُ صَيْدُهَا».

[2914–459]. (Dar al-Salam 3154) Abu Bakr ibn Abi Shaybah narrated: ʿAbdullāh ibn Numayr narrated [H]. Also, Ibn Numayr narrated; my father narrated; ʿUthmān ibn Ḥakīm narrated; ʿĀmir ibn Saʿd narrated to me; from his father who said: **‘God’s Messenger (peace be upon him) said: “I hereby establish the sanctity of [the area] between the two black-stone areas of Madinah: none of its trees may be cut and no game may be killed”. He also said: “Madinah is better for them, if they but knew. If anyone leaves it in preference for some other place, God will replace him with one who is better. Anyone who patiently endures its tough life and hard toil, I will be his intercessor, or witness, on the Day of Judgement”.’**

حَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا عَبْدُ اللهِ بْنُ نُمَيْرٍ، ح. وَحَدَّثَنَا ابْنُ نُمَيْرٍ، حَدَّثَنَا أَبِي، حَدَّثَنَا عُثْمَانُ بْنُ حَكِيمٍ، حَدَّثَنِي عَامِرُ بْنُ سَعْدٍ، عَنْ أَبِيهِ، قَالَ: قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «إِنِّي أُحَرِّمُ مَا بَيْنَ

لاَبَتَيِ الْـمَدِينَةِ أَنْ يُقْطَعَ عِضَاهُهَا، أَوْ يُقْتَلَ صَيْدُهَا. وَقَالَ: الْـمَدِينَةُ خَيْرٌ لَهُمْ لَوْ كَانُوا يَعْلَمُونَ. لاَ يَدَعُهَا أَحَدٌ رَغْبَةً عَنْهَا إِلاَّ أَبْدَلَ اللهُ فِيهَا مَنْ هُوَ خَيْرٌ مِنْهُ، وَلاَ يَثْبُتُ أَحَدٌ عَلَى لأْوَائِهَا وَجَهْدِهَا إِلاَّ كُنْتُ لَهُ شَفِيعًا أَوْ شَهِيدًا يَوْمَ الْقِيَامَةِ».

[2915–460]. (Dar al-Salam 3155) Ibn Abi ʿUmar narrated: Marwān ibn Muʿāwiyah narrated; ʿUthmān ibn Ḥakīm al-Anṣārī narrated; ʿĀmir ibn Saʿd ibn Abi Waqqāṣ reported to me; from his father that God's Messenger (peace be upon him) said…**he mentioned the same as Ibn Numayr's hadith but added: 'Whoever harbours ill for the people of Madinah, God will be sure to get him melted in fire, like lead, or like salt in water'.**

وَحَدَّثَنَا ابْنُ أَبِي عُمَرَ، حَدَّثَنَا مَرْوَانُ بْنُ مُعَاوِيَةَ، حَدَّثَنَا عُثْمَانُ بْنُ حَكِيمٍ الأَنْصَارِيُّ، أَخْبَرَنِي عَامِرُ بْنُ سَعْدِ بْنِ أَبِي وَقَّاصٍ، عَنْ أَبِيهِ، أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ ... ثُمَّ ذَكَرَ مِثْلَ حَدِيثِ ابْنِ نُمَيْرٍ، وَزَادَ فِي الْحَدِيثِ: «وَلاَ يُرِيدُ أَحَدٌ أَهْلَ الْـمَدِينَةِ بِسُوءٍ إِلاَّ أَذَابَهُ اللهُ فِي النَّارِ ذَوْبَ الرَّصَاصِ أَوْ ذَوْبَ الْمِلْحِ فِي الْـمَاءِ».

[2916–461]. (Dar al-Salam 3156) Isḥāq ibn Ibrāhīm and ʿAbd ibn Ḥumayd narrated: both from al-ʿAqadī. ʿAbd said: ʿAbd al-Malik ibn ʿAmr reported; ʿAbdullāh ibn Jaʿfar narrated; from Ismāʿīl ibn Muhammad; from ʿĀmir ibn Saʿd; that **'Saʿd rode to his palace at al-ʿAqīq where he found a slave cutting tree branches or hitting them to drop their leaves. He took everything the slave had. When Saʿd went back, the slave's people came over and**

requested that he return to the slave, or to them, what he had taken from him. He said: “Far be it from me to return something God’s Messenger gave me”. He refused to return anything’.

وَحَدَّثَنَا إِسْحَاقُ بْنُ إِبْرَاهِيمَ، وَعَبْدُ بْنُ حُمَيْدٍ، جَمِيعًا عَنِ الْعَقَدِيِّ. قَالَ عَبْدٌ: أَخْبَرَنَا عَبْدُ الْـمَلِكِ بْنُ عَمْرٍو، حَدَّثَنَا عَبْدُ اللهِ بْنُ جَعْفَرٍ، عَنْ إِسْمَاعِيلَ بْنِ مُحَمَّدٍ، عَنْ عَامِرِ بْنِ سَعْدٍ، أَنَّ سَعْدًا رَكِبَ إِلَى قَصْرِهِ بِالْعَقِيقِ، فَوَجَدَ عَبْدًا يَقْطَعُ شَجَرًا أَوْ يَخْبِطُهُ فَسَلَبَهُ. فَلَـمَّا رَجَعَ سَعْدٌ جَاءَهُ أَهْلُ الْعَبْدِ فَكَلَّمُوهُ أَنْ يَرُدَّ عَلَى غُلاَمِهِمْ، أَوْ عَلَيْهِمْ، مَا أَخَذَ مِنْ غُلاَمِهِمْ. فَقَالَ: مَعَاذَ اللهِ أَنْ أَرُدَّ شَيْئًا نَفَّلَنِيهِ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ . وَأَبَى أَنْ يَرُدَّ عَلَيْهِمْ.

[2917–462]. (Dar al-Salam 3157) Yaḥyā ibn Ayyūb, Qutaybah ibn Saʿīd and Ibn Ḥujr narrated:[iii] all from Ismāʿīl. Ibn Ayyūb said: Ismāʿīl ibn Jaʿfar narrated; ʿAmr ibn Abi ʿAmr, who is al-Muṭṭalib ibn ʿAbdullāh ibn Ḥanṭab’s *mawlā*, reported to me; that he heard Anas ibn Mālik say: **‘God’s Messenger (peace be upon him) said to Abu Ṭalḥah: “Find me one of your lads to serve me”. Abu Ṭalḥah took me behind him on his mount. I served God’s Messenger wherever he stopped’. He added in the hadith: ‘When he drew close to Madinah, he said: “This mountain loves us and is loved by us”. When he was at the outskirts of Madinah he said: “My Lord, I establish its sanctity, between its two mountains, in the same way as Abraham sanctified Makkah. My Lord, bless their *mudd* and their *ṣāʿ*”.’**

حَدَّثَنَا يَحْيَى بْنُ أَيُّوبَ، وَقُتَيْبَةُ بْنُ سَعِيدٍ، وَابْنُ حُجْرٍ جَمِيعًا عَنْ إِسْمَاعِيلَ. قَالَ ابْنُ أَيُّوبَ: حَدَّثَنَا إِسْمَاعِيلُ بْنُ جَعْفَرٍ، أَخْبَرَنِي عَمْرُو بْنُ أَبِي عَمْرٍو مَوْلَى الْـمُطَّلِبِ بْنِ عَبْدِ اللهِ بْنِ حَنْطَبٍ أَنَّهُ سَمِعَ أَنَسَ بْنَ مَالِكٍ يَقُولُ: قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ لأَبِي طَلْحَةَ: «الْتَمِسْ لِي غُلاَمًا مِنْ غِلْـمَانِكُمْ يَخْدُمُنِي». فَخَرَجَ بِي أَبُو طَلْحَةَ، يُرْدِفُنِي وَرَاءَهُ. فَكُنْتُ أَخْدُمُ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ كُلَّمَا نَزَلَ. وَقَالَ فِي الْحَدِيثِ: ثُمَّ أَقْبَلَ حَتَّى إِذَا بَدَا لَهُ أُحُدٌ قَالَ: «هَذَا جَبَلٌ يُحِبُّنَا وَنُحِبُّهُ ». فَلَـمَّا أَشْرَفَ عَلَى الْـمَدِينَةِ قَالَ: «اللَّهُمَّ إِنِّي أُحَرِّمُ مَا بَيْنَ جَبَلَيْهَا، مِثْلَ مَا حَرَّمَ بِهِ إِبْرَاهِيمُ مَكَّةَ. اللَّهُمَّ بَارِكْ لَهُمْ فِي مُدِّهِمْ وَصَاعِهِمْ» .

[2918–000]. (Dar al-Salam 3158) Saʿīd ibn Manṣūr and Qutaybah ibn Saʿīd narrated: they said: Yaʿqūb (who is ibn ʿAbd al-Raḥmān al-Qāriy) narrated; from ʿAmr ibn Abi ʿAmr; from Anas ibn Mālik; from the Prophet (peace be upon him): **the same text, except that he said: ‘I establish the sanctity of [the area] between its two black-stone areas’.**

وَحَدَّثَنَاهُ سَعِيدُ بْنُ مَنْصُورٍ، وَقُتَيْبَةُ بْنُ سَعِيدٍ، قَالا: حَدَّثَنَا يَعْقُوبُ (وَهُوَ ابْنُ عَبْدِ الرَّحْمَنِ الْقَارِيُّ)، عَنْ عَمْرِو بْنِ أَبِي عَمْرٍو، عَنْ أَنَسِ بْنِ مَالِكٍ، عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: بِمِثْلِهِ، غَيْرَ أَنَّهُ قَالَ: «إِنِّي أُحَرِّمُ مَا بَيْنَ لاَبَتَيْهَا» .

[2919–463]. (Dar al-Salam 3159) Ḥāmid ibn ʿUmar narrated:[iv] ʿAbd al-Wāḥid narrated; ʿĀṣim narrated. He said: **‘I said to Anas**

ibn Mālik: “Did God’s Messenger sanctify Madinah?” He answered: “Yes, the area in between this and that. Therefore, whoever commits an offence there…” He then said to me: “This is a severe one. Whoever commits an offence in it, the curse of God, the angels and all mankind may fall on him. God shall not accept any indemnity from him on the Day of Judgement”.’

Ibn Anas added: **‘Or shelters an offender’.**

وَحَدَّثَنَاهُ حَامِدُ بْنُ عُمَرَ، حَدَّثَنَا عَبْدُ الْوَاحِدِ، حَدَّثَنَا عَاصِمٌ، قَالَ: قُلْتُ لأَنَسِ بْنِ مَالِكٍ أَحَرَّمَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ الْـمَدِينَةَ قَالَ نَعَمْ مَا بَيْنَ كَذَا إِلَى كَذَا فَمَنْ أَحْدَثَ فِيهَا حَدَثًا - قَالَ - ثُمَّ قَالَ لِي هَذِهِ شَدِيدَةٌ «مَنْ أَحْدَثَ فِيهَا حَدَثًا فَعَلَيْهِ لَعْنَةُ اللهِ وَالْـمَلاَئِكَةِ وَالنَّاسِ أَجْمَعِينَ لاَ يَقْبَلُ اللهُ مِنْهُ يَوْمَ الْقِيَامَةِ صَرْفًا وَلاَ عَدْلاً».

قَالَ فَقَالَ ابْنُ أَنَسٍ أَوْ آوَى مُحْدِثًا

[2920–464]. (Dar al-Salam 3160) Zuhayr ibn Ḥarb narrated to me: Yazīd ibn Ḥārūn narrated; ʿĀṣim al-Aḥwal reported. He said: **‘I asked Anas: “Did God’s Messenger (peace be upon him) sanctify Madinah?” He said: “Yes. It has its sanctity. Its vegetation may not be pulled out. Whoever does that incurs God’s curse and the curse of the angels and all mankind”.’**

حَدَّثَنِي زُهَيْرُ بْنُ حَرْبٍ، حَدَّثَنَا يَزِيدُ بْنُ هَارُونَ، أَخْبَرَنَا عَاصِمٌ الأَحْوَلُ، قَالَ: سَأَلْتُ أَنَسًا أَحَرَّمَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ الْـمَدِينَةَ؟

قَالَ نَعَمْ. هِيَ حَرَامٌ لاَ يُخْتَلَى خَلاَهَا. فَمَنْ فَعَلَ ذَلِكَ فَعَلَيْهِ لَعْنَةُ اللهِ وَالْـمَلاَئِكَةِ وَالنَّاسِ أَجْمَعِينَ.

[2921–465]. (Dar al-Salam 3161) Qutaybah ibn Saʿīd narrated:[v] from Mālik ibn Anas as part of what was read out to him, from Isḥāq ibn ʿAbdullāh ibn Abi Ṭalḥah; from Anas ibn Mālik that God's Messenger (peace be upon him) said: **'My Lord, bless their measure for them, and bless their *ṣāʿ* and their *mudd* for them'.**

حَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ، عَنْ مَالِكِ بْنِ أَنَسٍ، فِيمَا قُرِئَ عَلَيْهِ، عَنْ إِسْحَاقَ بْنِ عَبْدِ اللهِ بْنِ أَبِي طَلْحَةَ، عَنْ أَنَسِ بْنِ مَالِكٍ، أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: «اللَّهُمَّ بَارِكْ لَهُمْ فِي مِكْيَالِهِمْ، وَبَارِكْ لَهُمْ فِي صَاعِهِمْ، وَبَارِكْ لَهُمْ فِي مُدِّهِم».

[2922–466]. (Dar al-Salam 3162) Zuhayr ibn Ḥarb and Ibrāhīm ibn Muhammad al-Sāmiy narrated:[vi] both said: Wahb ibn Jarīr narrated; my father narrated; he said: I heard Yūnus narrating from al-Zuhrī; from Anas ibn Mālik who said: **'God's Messenger (peace be upon him) said: "My Lord, place in Madinah twice the blessing given to Makkah".'**

وَحَدَّثَنِي زُهَيْرُ بْنُ حَرْبٍ، وَإِبْرَاهِيمُ بْنُ مُحَمَّدٍ السَّامِيُّ، قَالا: حَدَّثَنَا وَهْبُ بْنُ جَرِيرٍ، حَدَّثَنَا أَبِي قَالَ: سَمِعْتُ يُونُسَ يُحَدِّثُ عَنِ الزُّهْرِيِّ، عَنْ أَنَسِ بْنِ مَالِكٍ، قَالَ: قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «اللَّهُمَّ اجْعَلْ بِالْـمَدِينَةِ ضِعْفَىْ مَا بِمَكَّةَ مِنَ الْبَرَكَةِ» .

[2923–467]. (Dar al-Salam 3163) Abu Bakr ibn Abi Shaybah, Zuhayr ibn Ḥarb and Abu Kurayb narrated:[vii] all from Abu Muʿāwiyah. Abu Kurayb said: Abu Muʿāwiyah narrated: al-Aʿmash narrated; from Ibrāhīm al-Taymī; from his father. He said: **‘ʿAlī ibn Abi Ṭālib addressed us and said: “Whoever alleges that we have something to recite other than God’s Book and this sheet (he said: to a sheet hanging from the sheathe of his sword) is a liar. It states the ages of camels to be given in zakat, and some indemnities for injuries. It also mentions that the Prophet (peace be upon him) said: ‘Madinah is a sanctity between ʿAyr and Thawr. Whoever commits an offence in it or shelters an offender incurs God’s curse and the curse of the angels and all mankind. God will not accept from him anything in indemnity or atonement on the Day of Judgement. A pledge given by the Muslim community is one pledge; it may be given by their lowest in rank. Whoever claims himself to belong to anyone other than his own father, or affiliates himself to any other than the people to whom he owes loyalty, incurs God’s curse and the curse of the angels and all mankind. God will not accept from him anything in indemnity or atonement on the Day of Judgement’.”’**

وَحَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، وَزُهَيْرُ بْنُ حَرْبٍ، وَأَبُو كُرَيْبٍ جَمِيعًا عَنْ أَبِي مُعَاوِيَةَ. قَالَ أَبُو كُرَيْبٍ: حَدَّثَنَا أَبُو مُعَاوِيَةَ،: حَدَّثَنَا الأَعْمَشُ، عَنْ إِبْرَاهِيمَ التَّيْمِيِّ، عَنْ أَبِيهِ، قَالَ: خَطَبَنَا عَلِيُّ بْنُ أَبِي طَالِبٍ فَقَالَ: مَنْ زَعَمَ أَنَّ عِنْدَنَا، شَيْئًا نَقْرَؤُهُ إِلاَّ كِتَابَ اللهِ وَهَذِهِ الصَّحِيفَةَ - قَالَ وَصَحِيفَةٌ مُعَلَّقَةٌ فِي قِرَابِ سَيْفِهِ - فَقَدْ كَذَبَ. فِيهَا أَسْنَانُ الإِبِلِ، وَأَشْيَاءُ

مِنَ الْجِرَاحَاتِ. وَفِيهَا قَالَ النَّبِيُّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «الْـمَدِينَةُ حَرَمٌ مَا بَيْنَ عَيْرٍ إِلَى ثَوْرٍ. فَمَنْ أَحْدَثَ فِيهَا حَدَثًا، أَوْ آوَى مُحْدِثًا، فَعَلَيْهِ لَعْنَةُ اللهِ وَالْـمَلاَئِكَةِ وَالنَّاسِ أَجْمَعِينَ. لاَ يَقْبَلُ اللهُ مِنْهُ يَوْمَ الْقِيَامَةِ صَرْفًا وَلاَ عَدْلاً. وَذِمَّةُ الْـمُسْلِمِينَ وَاحِدَةٌ، يَسْعَى بِهَا أَدْنَاهُمْ. وَمَنِ ادَّعَى إِلَى غَيْرِ أَبِيهِ، أَوِ انْتَمَى إِلَى غَيْرِ مَوَالِيهِ، فَعَلَيْهِ لَعْنَةُ اللهِ وَالْـمَلاَئِكَةِ وَالنَّاسِ أَجْمَعِينَ. لاَ يَقْبَلُ اللهُ مِنْهُ يَوْمَ الْقِيَامَةِ صَرْفًا وَلاَ عَدْلاً».

[2924–000].[viii] Abu Bakr’s and Zuhayr’s narrations stop at ‘it may be given by their lowest in rank’. They did not mention the rest of the hadith. Nor does their narration include ‘to a sheet hanging from the sheathe of his sword’.

وَانْتَهَى حَدِيثُ أَبِي بَكْرٍ وَزُهَيْرٍ عِنْدَ قَوْلِهِ: «يَسْعَى بِهَا أَدْنَاهُمْ ». وَلَمْ يَذْكُرَا مَا بَعْدَهُ، وَلَيْسَ فِي حَدِيثِهِمَا: مُعَلَّقَةٌ فِي قِرَابِ سَيْفِهِ.

[2925–468]. (Dar al-Salam 3164) ʿAlī ibn Ḥujr al-Saʿdī narrated to me: ʿAlī ibn Mushir reported [H]. Also, Abu Saʿīd al-Ashajj narrated to me; Wakīʿ narrated; all from al-Aʿmash; with the same chain of transmission: **a similar text to the hadith narrated by Abu Kurayb from Abu Muʿāwiyah to its end. However, he adds at the end: ‘Whoever breaches a pledge of security given by a Muslim incurs God’s curse and the curse of the angels and all mankind. God will not accept from him anything in indemnity on the Day of Judgement’. Their hadith does not include: ‘whoever claims himself to belong to anyone other than his own father’.**

Wakīʿ’s narration does not mention **‘on the Day of Judgement’.**

وَحَدَّثَنِي عَلِيُّ بْنُ حُجْرٍ السَّعْدِيُّ، أَخْبَرَنَا عَلِيُّ بْنُ مُسْهِرٍ، ح. وَحَدَّثَنِي أَبُو سَعِيدٍ الأَشَجُّ، حَدَّثَنَا وَكِيعٌ، جَمِيعًا عَنِ الأَعْمَشِ، بِهَذَا الإِسْنَادِ . نَحْوَ حَدِيثِ أَبِي كُرَيْبٍ عَنْ أَبِي مُعَاوِيَةَ إِلَى آخِرِهِ. وَزَادَ فِي الْحَدِيثِ: «فَمَنْ أَخْفَرَ مُسْلِمًا فَعَلَيْهِ لَعْنَةُ اللهِ وَالْـمَلاَئِكَةِ وَالنَّاسِ أَجْمَعِينَ. لاَ يُقْبَلُ مِنْهُ يَوْمَ الْقِيَامَةِ صَرْفٌ وَلاَ عَدْلٌ» . وَلَيْسَ فِي حَدِيثِهِمَا: «مَنِ ادَّعَى إِلَى غَيْرِ أَبِيهِ». وَلَيْسَ فِي رِوَايَةِ وَكِيعٍ ذِكْرُ يَوْمِ الْقِيَامَةِ.

[2926–000]. (Dar al-Salam 3165) ʿAbdullāh ibn ʿUmar al-Qawārīrī and Muhammad ibn Abu Bakr al-Muqaddamī narrated to me: both said: ʿAbd al-Raḥmān ibn Mahdī narrated; Sufyān narrated; from al-Aʿmash; with the same chain of transmission: **a similar text to the narration by Ibn Mushir and Wakīʿ, except ‘or affiliates himself to any other than his own people’ and the mention of the curse.**

وَحَدَّثَنِي عُبَيْدُ اللهِ بْنُ عُمَرَ الْقَوَارِيرِيُّ، وَمُحَمَّدُ بْنُ أَبِي بَكْرٍ الْـمُقَدَّمِيُّ، قَالا: حَدَّثَنَا عَبْدُ الرَّحْمَنِ بْنُ مَهْدِيٍّ، حَدَّثَنَا سُفْيَانُ، عَنِ الأَعْمَشِ، بِهَذَا الإِسْنَادِ: نَحْوَ حَدِيثِ ابْنِ مُسْهِرٍ وَوَكِيعٍ، إِلاَّ قَوْلَهُ: «مَنْ تَوَلَّى غَيْرَ مَوَالِيهِ» وَذِكْرَ اللَّعْنَةِ لَهُ.

[2927–469]. (Dar al-Salam 3166) Abu Bakr ibn Abi Shaybah narrated:[ix] Ḥusayn ibn ʿAlī al-Juʿfī narrated; from Zā’idah; from Sulaymān; from Abu Ṣāliḥ; from Abu Hurayrah; from the Prophet (peace be upon him). He said: **‘Madinah is a sanctity. Whoever commits an offence or shelters an offender in it incurs God’s**

curse and the curse of the angels and all mankind. No indemnity is accepted from him on the Day of Judgement’.

حَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا حُسَيْنُ بْنُ عَلِيٍّ الْجُعْفِيُّ، عَنْ زَائِدَةَ، عَنْ سُلَيْمَانَ، عَنْ أَبِي صَالِحٍ، عَنْ أَبِي هُرَيْرَةَ، عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: «الْـمَدِينَةُ حَرَمٌ، فَمَنْ أَحْدَثَ فِيهَا حَدَثًا، أَوْ آوَى مُحْدِثًا، فَعَلَيْهِ لَعْنَةُ اللهِ وَالْـمَلاَئِكَةِ وَالنَّاسِ أَجْمَعِينَ. لاَ يُقْبَلُ مِنْهُ يَوْمَ الْقِيَامَةِ عَدْلٌ وَلاَ صَرْفٌ» .

[2928–470]. (Dar al-Salam 3167) Abu Bakr ibn al-Naḍr ibn Abi al-Naḍr narrated: Abu al-Naḍr narrated to me; ʿUbaydullāh al-Ashjaʿī narrated to me; from Sufyān; from al-Aʿmash; with the same chain of transmission: **the same text. He did not say: ‘on the Day of Judgement’. He added: ‘A pledge given by the Muslim community is one pledge; it may be given by their lowest in rank. Whoever breaches a pledge of security given by a Muslim incurs God’s curse and the curse of the angels and all mankind. No indemnity is accepted from him on the Day of Judgement’.**

وَحَدَّثَنَا أَبُو بَكْرِ بْنُ النَّضْرِ بْنِ أَبِي النَّضْرِ، حَدَّثَنِي أَبُو النَّضْرِ، حَدَّثَنِي عُبَيْدُ اللهِ الأَشْجَعِيُّ، عَنْ سُفْيَانَ، عَنِ الأَعْمَشِ، بِهَذَا الإِسْنَادِ: مِثْلَهُ، وَلَمْ يَقُلْ «يَوْمَ الْقِيَامَةِ». وَزَادَ: «وَذِمَّةُ الْـمُسْلِمِينَ وَاحِدَةٌ. يَسْعَى بِهَا أَدْنَاهُمْ... فَمَنْ أَخْفَرَ مُسْلِمًا فَعَلَيْهِ لَعْنَةُ اللهِ وَالْـمَلاَئِكَةِ وَالنَّاسِ أَجْمَعِينَ لاَ يُقْبَلُ مِنْهُ يَوْمَ الْقِيَامَةِ عَدْلٌ وَلاَ صَرْفٌ» .

[2929–471]. (Dar al-Salam 3168) Yaḥyā ibn Yaḥyā narrated:[x]he said: I read out to Mālik; from Ibn Shihāb; from Saʿīd ibn al-Musayyib; from Abu Hurayrah that he said: **‘If I were to see deer grazing around in Madinah, I would not scare them. God’s Messenger (peace be upon him) said: “The area between its two black-stone areas is a sanctity”.’**

حَدَّثَنَا يَحْيَى بْنُ يَحْيَى، قَالَ قَرَأْتُ عَلَى مَالِكٍ، عَنِ ابْنِ شِهَابٍ، عَنْ سَعِيدِ بْنِ الْـمُسَيَّبِ، عَنْ أَبِي هُرَيْرَةَ، أَنَّهُ كَانَ يَقُولُ: لَوْ رَأَيْتُ الظِّبَاءَ تَرْتَعُ بِالْـمَدِينَةِ مَا ذَعَرْتُهَا. قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «مَا بَيْنَ لاَبَتَيْهَا حَرَامٌ» .

[2930–472]. (Dar al-Salam 3169) Isḥāq ibn Ibrāhīm, Muhammad ibn Rāfiʿ and ʿAbd ibn Ḥumayd narrated: Isḥāq said: ʿAbd al-Razzāq reported; Maʿmar narrated; from al-Zuhrī; from Saʿīd ibn al-Musayyib; from Abu Hurayrah. He said: **‘God’s Messenger established the sanctity of the area between the two black-stone areas of Madinah’. Abu Hurayrah added: ‘If I were to see deer roaming between the two black-stone areas, I would not scare them. He made an area of twelve miles surrounding Madinah a preserved area’.**

وَحَدَّثَنَا إِسْحَاقُ بْنُ إِبْرَاهِيمَ، وَمُحَمَّدُ بْنُ رَافِعٍ، وَعَبْدُ بْنُ حُمَيْدٍ. قَالَ إِسْحَاقُ أَخْبَرَنَا عَبْدُ الرَّزَّاقِ، حَدَّثَنَا مَعْمَرٌ، عَنِ الزُّهْرِيِّ، عَنْ سَعِيدِ بْنِ الْـمُسَيَّبِ، عَنْ أَبِي هُرَيْرَةَ، قَالَ: حَرَّمَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ

وَسَلَّمَ مَا بَيْنَ لاَبَتَيِ الْـمَدِينَةِ . قَالَ أَبُو هُرَيْرَةَ: فَلَوْ وَجَدْتُ الظِّبَاءَ مَا بَيْنَ لاَبَتَيْهَا مَا ذَعَرْتُهَا . وَجَعَلَ اثْنَيْ عَشَرَ مِيلاً حَوْلَ الْـمَدِينَةِ حِمًى.

[2931–473]. (Dar al-Salam 3170) Qutaybah ibn Saʿīd narrated:[xi] from Mālik ibn Anas (in what was read out to him); from Suhayl ibn Abu Ṣāliḥ; from his father; from Abu Hurayrah that he said: **‘When people saw the early fruit, they would bring it to the Prophet (peace be upon him). God’s Messenger (peace be upon him) would take it and say: “Our Lord, bless our fruits, bless our city, bless our *ṣāʿ*, bless our *mudd*. Our Lord, Abraham was Your servant, friend and prophet, and I am Your servant and prophet. He prayed to You for Makkah, and I pray to You for Madinah in the same terms as he prayed for Makkah and as much more with it”. He would then give the fruit to the youngest child present’.**

حَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ، عَنْ مَالِكِ بْنِ أَنَسٍ فِيمَا قُرِئَ عَلَيْهِ، عَنْ سُهَيْلِ بْنِ أَبِي صَالِحٍ، عَنْ أَبِيهِ، عَنْ أَبِي هُرَيْرَةَ، أَنَّهُ قَالَ كَانَ النَّاسُ إِذَا رَأَوْا أَوَّلَ الثَّمَرِ، جَاءُوا بِهِ إِلَى النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ. فَإِذَا أَخَذَهُ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: «اللَّهُمَّ بَارِكْ لَنَا فِي ثَمَرِنَا، وَبَارِكْ لَنَا فِي مَدِينَتِنَا، وَبَارِكْ لَنَا فِي صَاعِنَا، وَبَارِكْ لَنَا فِي مُدِّنَا. اللَّهُمَّ إِنَّ إِبْرَاهِيمَ عَبْدُكَ وَخَلِيلُكَ وَنَبِيُّكَ، وَإِنِّي عَبْدُكَ وَنَبِيُّكَ. وَإِنَّهُ دَعَاكَ لِـمَكَّةَ، وَإِنِّي أَدْعُوكَ لِلْـمَدِينَةِ بِمِثْلِ مَا دَعَاكَ لِـمَكَّةَ وَمِثْلِهِ مَعَهُ». قَالَ: ثُمَّ يَدْعُو أَصْغَرَ وَلِيدٍ لَهُ فَيُعْطِيهِ ذَلِكَ الثَّمَرَ.

[2932–474]. (Dar al-Salam 3171) Yaḥyā ibn Yaḥyā narrated:[xii] ʿAbd al-ʿAzīz ibn Muhammad al-Madanī reported; from Suhayl ibn Abu Ṣāliḥ; from his father; from Abu Hurayrah that **‘God’s Messenger (peace be upon him) would be brought the early fruits. He would say: “Our Lord, bless our city for us, and our fruits, and our *mudd* and our *ṣāʿ*. A blessing followed by a blessing”. He would then give it to the youngest child present’.**

حَدَّثَنَا يَحْيَى بْنُ يَحْيَى، أَخْبَرَنَا عَبْدُ الْعَزِيزِ بْنُ مُحَمَّدٍ الْـمَدَنِيُّ، عَنْ سُهَيْلِ بْنِ أَبِي صَالِحٍ، عَنْ أَبِيهِ، عَنْ أَبِي هُرَيْرَةَ، أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ كَانَ يُؤْتَى بِأَوَّلِ الثَّمَرِ فَيَقُولُ: «اللَّهُمَّ بَارِكْ لَنَا فِي مَدِينَتِنَا، وَفِي ثِمَارِنَا، وَفِي مُدِّنَا وَفِي صَاعِنَا، بَرَكَةً مَعَ بَرَكَةٍ». ثُمَّ يُعْطِيهِ أَصْغَرَ مَنْ يَحْضُرُهُ مِنَ الْوِلْدَانِ.

Text Explanation

Hadith No. 2909 quotes the Prophet as saying: ‘Abraham established the sanctity of Makkah’. This statement may be cited as evidence in support of the view that the sanctity of Makkah was established during Abraham’s lifetime. The correct view is that it was established when God created the heavens and earth. We discussed this question in detail earlier. Scholars mention two possibilities concerning Abraham’s sanctity of Makkah. The first is that he did so in obedience to an order God gave him, not on his own initiative. Hence, its sanctity is attributed to God at times and to Abraham at other times. The other possibility is that Abraham supplicated for Makkah and God answered his supplication by establishing its sanctity. Hence, the sanctity of Makkah was attributed to Abraham.

The Prophet then said: ‘I establish the sanctity of Madinah as Abraham did with Makkah’. Muslim then mentions the hadiths that give the same meaning. These hadiths clearly confirm the argument of al-Shāfiʿī, Mālik and other scholars who maintain that it is forbidden to hunt in Madinah or fell its trees. Abu Ḥanīfah considers both permissible, citing in support the hadith that mentions the Prophet’s question to the child: ‘Abu ʿUmayr: “what did al-Nughayr [i.e., a small bird the child had] do?”’ Our scholars respond in two ways. The first is that this hadith about al-Nughayr took place before the Prophet established the sanctity of Madinah. The other answer is that the hunting of that bird took place outside the sanctified area and was subsequently brought in. This latter answer, however, is not convincing to them, according to their principles, because the Ḥanafīs apply a rule saying that game hunted outside the sanctity and brought into it acquires the same status as that hunted within it. However, this rule is rather weak, and they may be answered by the evidence showing it as weak.

The well-known view of Mālik, al-Shāfiʿī and the majority of scholars is that no indemnity or compensation is due for violating the prohibition of killing game or cutting trees in Madinah. Such actions are forbidden, and no

compensation is due. Ibn Abī Dhi'b and Ibn Abi Laylā maintain that compensation is due in the same way as such violations incur in Makkah. Some Mālikī scholars share this view. Al-Shāfiʿī has a view expressed in his early rulings, which states that one who kills such game is punished by having his belongings taken away, including his clothes. This is based on the hadith mentioning Saʿd ibn Abi Waqqāṣ in the present chapter. *Qadi* ʿIyāḍ said: 'No one after the Prophet's Companions said this apart from al-Shāfiʿī in his older version, but God knows best'.

In several hadiths in this chapter, the Prophet defines the area he made a sanctity to be 'between the two black-stone areas'. These are two areas to the east and west of Madinah covered with volcanic black rocks, leaving only narrow passages in between. They make Madinah extremely defensible against any enemy attack. The Prophet's words mean that the sanctity applies to these two areas and all the space in between them.

As outlined by the Prophet in these hadiths, the terms of the sanctity of Madinah include that 'its trees may not be felled and its game may not be hunted'. The Prophet uses a special word, *ʿiḍāh*, which refers to any tree that may have thorns. This includes practically all trees.

In hadith No. 2914, the Prophet says: 'Anyone who patiently endures its tough life and hard toil, I will be his intercessor or witness on the Day of Judgement'. Here, the Prophet uses the word *la'wā'*, which is translated as 'tough life'. Literally, the word means 'difficulty and hunger'. Thus, the Prophet refers to the fact that life in Madinah could be hard to endure, but those who endure it are assured of his intercession on their behalf on the Day of Judgement. *Qadi* ʿIyāḍ said:

> A long time ago I asked about the meaning of this hadith and why the Prophet specifically mentions Madinah residents by his intercession, when we know that his intercession will apply to all his community. I received a well thought out and convincing answer written on several pages. Whoever read it felt it was definitely correct and to the point. It is useful to quote some points from it.

Some of our scholars quoted the Prophet saying, ‘I will be his intercessor or witness…’ They added that the word ‘or’ implies doubt, [meaning by the narrator as to which of the two words the Prophet used]. To us, it appears that it bears no element of doubt by the narrator. This hadith has been narrated by Jābir ibn ʿAbdullāh, Saʿd ibn Abi Waqqāṣ, Ibn ʿUmar, Abu Saʿīd, Abu Hurayrah, Asmā’ bint ʿUmays and Ṣafiyyah bint Abu ʿUbayd from the Prophet (peace be upon him) with this same wording. It is practically impossible that all of them or all those who narrated from them had the same doubt and expressed it in the same way. It is far more likely that the Prophet said it in this wording, either to make it more informative or he used ‘or’ in the sense of division. He would be a witness for some of the people of Madinah and an intercessor for the rest. He may be an intercessor on behalf of the sinners and a witness for those who are obedient, or a witness for those who died during his lifetime and an intercessor on behalf of those who died after him, or some other division.

This is a special privilege that is added to his intercession on behalf of the sinners or on behalf of all people, and to his testimony on behalf of all the Muslim community throughout all generations. The Prophet said about the martyrs in the Battle of Uḥud: ‘I am a witness on behalf of these…’. Such statements are meant as an added privilege and honour. Alternatively, ‘or’ may be used in the sense of ‘and’, which makes the meaning of the hadith that the Prophet will be an intercessor and witness for the residents of Madinah.

Nevertheless, if we still consider ‘or’ to imply doubt by the narrator, as some scholars said, then one of the two words is the correct one. If ‘witness’ is the right word, there is no problem or objection, because it is a special privilege for them in addition to the intercession the Prophet has kept in store so that he will use it on behalf of all his community on the Day of Judgement. On the other

> hand, if ‘intercessor’ is the right word, then this is a special intercession for the Madinah residents to be added to the one in which they share with the rest of the Muslim community. This common intercession is the one the Prophet saved so that he could use it on the Day of Judgement to save his community from Hell. The added intercession for the Madinah residents will take a different form, such as giving them higher grades, or easier reckoning of their deeds, or some other form of privilege God may extend to them, such as sheltering them under His throne, or placing them on special platforms, or speeding them on their way to Heaven or some other forms given to some of them, but God knows best.

In the same hadith, No. 2914, the Prophet says of Madinah: ‘If anyone leaves it in preference for some other place, God will replace him with one who is better’. *Qadi* ʿIyāḍ mentions that scholars differ in their views about this statement. Some said that this was the case during the Prophet’s own lifetime, while others said that it applies for all time. This latter view is more correct.

In hadith No. 2915, the Prophet says: ‘Whoever harbours ill for the people of Madinah, God will be sure to get him melted in fire, like lead, or like salt in water’. *Qadi* ʿIyāḍ said:

> This addition, ‘in fire’, clarifies the problem presented by the hadiths which do not include it. It makes it clear that this is His judgement in the life to come. However, the hadith may refer to anyone who harboured ill for the people of Madinah during the Prophet’s lifetime and that such people would see their efforts foiled. God will ensure that their power will not be firmly established. It will disappear within a short period of time, just like what happened when hostilities took place there during the Umayyad period. Muslim ibn ʿUqbah, the commander of the attacking army, died on his way back. The caliph

who sent him, Yazīd ibn Muʿāwiyah died shortly afterwards. The same applied to those who followed their suit.

It may also be suggested that the Prophet's statement applies to anyone who tries to launch a surprise attack on Madinah, hoping to take it unawares. Their efforts will be foiled. This is different from those who attack it openly.

Hadith No. 2916 mentions that 'Saʿd rode to his palace at al-ʿAqīq where he found a slave cutting tree branches or hitting them to drop their leaves. He took everything the slave had. When Saʿd returned, the slave's people came over and requested that he return to the slave, or to them, what he had taken from him. He said: "Far be it from me to return something God's Messenger gave me". He refused to return anything'. The hadith provides clear evidence in support of the view prohibiting hunting and tree felling in Madinah, which is the view of Mālik, al-Shāfiʿī, Ahmad and the majority of scholars. Abu Ḥanīfah takes a different view, as we mentioned earlier. Muslim mentions the prohibition attributed to the Prophet (peace be upon him) and narrated by ʿAlī ibn Abi Ṭālib, Saʿd ibn Abi Waqqāṣ, Anas ibn Mālik, Jābir ibn ʿAbdullāh, Abu Saʿīd, Abu Hurayrah, ʿAbdullāh ibn Zayd, Rāfiʿ ibn Khadīj and Sahl ibn Ḥanīf. Other hadith scholars mention other hadiths reported by other Companions of the Prophet. Therefore, any view that is at variance with these clear and widely known authentic hadiths should be discarded.

This hadith provides the basis for al-Shāfiʿī's old ruling stating that a person who kills game or cuts trees within the sanctity of Madinah is punished by being stripped of whatever he has on him. This is the view of Saʿd ibn Abi Waqqāṣ and a number of the Prophet's Companions. *Qadi* ʿIyāḍ said: 'After the Prophet's Companions, no one shared this view except al-Shāfiʿī in his old ruling. The leading scholars of all provinces disagree with him'. To my mind, their disagreement is of no consequence as the sunnah confirms his view. Thus, al-Shāfiʿī's old ruling is the view of choice because the hadith mentioning it is authentic, the Prophet's

Companions implemented it and there is no confirmed evidence to negate it.

Our scholars said that if we are to put this old ruling into effect, the indemnity is defined in two ways. The first is that the game, trees and grazing grass are compensated for in the same way as if the violation had occurred in Makkah. The other way, which is more correct and shared by the majority of scholars explaining this old ruling, is that the hunter, tree cutter and grass puller is stripped. Again, there are two views concerning what is to be taken from the offender. One view suggests his clothes only, but the more correct one, which is shared by the majority, is that everything is taken from him just as it is taken from an unbeliever killed in war, which means his horse, arms, money and whatever else he had. Another question then follows, who benefits from this? Three answers are given, and the most correct one is that it belongs to the one who takes it away, as mentioned in the hadith stating Saʿd's case. The second answer is that it is given to the poor in Madinah, and the third is that it goes to the state treasury. When such a person is punished, everything he has is taken away, including his clothes, except what covers his *awrah*, i.e., the part of his body which is forbidden to expose. Our scholars say that such punishment is inflicted for mere hunting, whether the person kills the hunted game or not, but God knows best.

In hadith No. 2917, the Prophet looks at Mount Uḥud and says that 'it loves us and we love it'. The correct view is that Mount Uhud has this special distinctive quality of truly loving us. There are many other examples attributing feelings to inanimate objects, such as when God says in the Qur'an: 'Some other rocks fall down for fear of God'. (2: 74). Other examples include: the tree branch giving support to the Prophet as he delivered his Friday speech felt sorry when the Prophet stood away on the platform; the gravel which glorified God; the stone on which Prophet Moses put his clothes ran away; the Prophet's statement: 'I know a stone in Makkah which used to greet me'; the Prophet summoned two separate trees

and they joined each other; Mount Ḥirā' quaked and the Prophet said: 'Be calm, Ḥirā'. Those on you are only a prophet, a firm believer…'; and the poisoned lamb shoulder warned the Prophet against eating it, etc. Above all, God says in the Qur'an: 'Indeed every single thing extols His glory and praise, but you cannot understand their praises'. (17: 44) The correct meaning of this verse is that everything glorifies God according to their own abilities and characteristics, but we do not know how this is accomplished. This and similar things are endorsements of what we and other scholars understand of the meaning of the hadith, confirming that Mount Uhud loves us truly. Yet it is said that it means that Uhud's people love us, but God knows best.

In hadith No. 2919 the Prophet says: 'Whoever commits an offence in it, the curse of God, the angels and all mankind may fall on him'. That the Prophet threatens such an offender with curses by God, the angels and mankind spells a very strong warning. *Qadi* ʿIyāḍ said: 'Scholars take this statement as confirmation that it is a major sin. A curse is only incurred by a grave or major sin. Here we are told that God curses such a person, as do the angels and mankind. This gives a very strong sense of placing such a person far away from God's mercy. Linguistically speaking, a curse means expulsion. Scholars add that in this case, curse means the punishment such a person deserves for his sin. He is punished by being barred from Heaven in the initial period. This is different from the case of unbelievers who are denied all grace from God, but God knows best.

The Prophet adds: 'God shall not accept any indemnity from him on the Day of Judgement'. The word 'indemnity' is expressed in the Arabic original in two words *ṣarf* and ʿ*adl*, and these words are interpreted differently by scholars. Some say that they mean obligatory and voluntary worship, while others say that they mean repentance and recompense. There are various other views. *Qadi* ʿIyāḍ said: 'The meaning is that what such a person offers of obligatory and voluntary worship will be accepted only as the discharge of one's duty, but not as an act earning God's pleasure.

However, the meaning may be that such a person will not find in his good deeds what is enough to repay for his offence. Thus, his case is different from other sinners who receive God's grace and pardon'.

At the end of the hadith, we have: 'Ibn Anas added: Or shelters an offender'. This means that Ibn Anas was present when his father narrated the hadith and he reminded him of this, which Anas had dropped.

In hadith No. 2921 the Prophet supplicates for the people of Madinah, saying: 'My Lord, bless their measure for them, and bless their *ṣāʿ* and their *mudd* for them'. *Qadi* ʿIyāḍ said:

> Blessing in this context means growth and increase. It may also mean consistency and continuity. It has been said that this blessing may be a religious one, which relates to what is due to God and measured by these measures, such as zakat and indemnities for errors and missed duties. Thus, the blessing means the continuity of these measures as long as the Shariah continues to be implemented. On the other hand, the blessing could be related to the present life which means an increase of what is measured by these measures, so that a measure in Madinah will go farther than the same measure elsewhere. Or perhaps the blessing occurs in how these measures are used in trading and the profit it generates, and also to the abundance of what is measured by these measures of the produce of Madinah. The increase could refer to what is measured because God gave the people of Madinah plenty after they had experienced a life of limited resources. He enabled them to take over vast areas in Syria, Iraq and Egypt, as well as other places. Goods from these areas were sent over to Madinah and its people became affluent. Such blessing and increase applied to the measure itself. Their *mudd* became of the Hāshimī type, twice or one and a half times the Prophet's *mudd*. All these are manifestations of how his supplication was answered.

What appears from all this is that the blessing occurs in what is measured by these measures in Madinah itself, so as to make a *mudd* in Madinah go farther than its equivalent elsewhere, but God knows best.

In hadith No. 2923 the narrator says: ‘ʿAlī ibn Abi Ṭālib addressed us and said: Whoever alleges that we have something to recite other than God’s Book and this sheet (he said: to a sheet hanging from the sheathe of his sword) is a liar’. This is a clear statement by ʿAlī (may God be pleased with him) refuting all that the Shia fabricate, alleging that the Prophet imparted to ʿAlī a wealth of inner and hidden knowledge, the principles of religion and treasures of the Shariah, and that the Prophet gave members of his household what he withheld from other people. All such claims are false and baseless lies. This statement by ʿAlī is sufficient to refute such falsehood. His statement also provides evidence confirming the permissibility of writing down religious knowledge. We explained this earlier.

The hadith continues with the Prophet saying: ‘Madinah is a sanctity between ʿAyr and Thawr’. ʿAyr is the name of a well-known mountain. *Qadi* ʿIyāḍ said that Muṣʿab ibn al-Zubayr and others said that there is neither ʿAyr nor Thawr in Madinah, but Thawr is close to Makkah. Al-Zubayr said that ʿAyr is a mountain near Madinah. *Qadi* ʿIyāḍ adds: ‘Most narrators quoted in al-Bukhari’s book mention ʿAyr. As for Thawr, some of them use an implicit reference and some leave out the name without replacing it with anything, because they felt that the mention of Thawr here is an error. Al-Māzarī said: “Some scholars consider the mention of Thawr here to be a mistake by the narrator, while the correct word is Uhud”. Thus says Abu ʿUbayd as well: “The correct version is: from ʿAyr to Uhud”.’ The same view is expressed by Abu Bakr al-Ḥāzimī and other hadith scholars. I may add that it is possible that Thawr was the name of a mountain close to Madinah, which could have been another name for Uhud or a different mountain, but the name was subsequently forgotten, and God knows best.

In this hadith the borders of the sanctity are ʿAyr to Thawr, or to Uhud, as already explained. In hadith No. 2917, the area is ‘between its two mountains’. And in the earlier hadiths it is ‘the area between its two black-stone areas’. All these versions are consistent, because ‘between its two black-stone areas’ define the limits of the sanctity from the east to the west, while ‘between its two mountains’ define the limits in the north and south, but God knows best.

Also, in No. 2923 the Prophet says: ‘A pledge given by the Muslim community is one pledge; it may be given by their lowest in rank’. A pledge here means a pledge of security. This clearly says that it is perfectly acceptable for Muslims to give a pledge of security to a non-Muslim. If one Muslim gives such a pledge of security, it is forbidden for all other Muslims to molest or harm the unbeliever, as long as that person remains under such protection. Such security has certain well-known conditions. The fact that the Prophet confirms that a pledge of security ‘may be given by their lowest in rank’ means that a pledge of security could be extended by any Muslim man or woman as also by a Muslim slave who is of lower rank than a free man.

The Prophet then adds: ‘Whoever claims himself to belong to anyone other than his own father, or affiliates himself to any other than his own people, incurs God’s curse and the curse of the angels and all mankind’. This is a very clear statement confirming the strong prohibition of claiming false parenthood or a freed slave affiliating himself or herself to other than the people who set him free. It is so strongly forbidden because it signifies ingratitude and leads to the confusion of the rights of inheritance, allegiance, payment of blood money, etc. In addition, it involves severance of ties of kinship and un-dutifulness.

In hadith No. 2928, the Prophet says: ‘Whoever breaches a pledge of security given by a Muslim incurs God’s curse and the curse of the angels and all mankind. No indemnity is accepted from him on the Day of Judgement’. This applies to a person who violates the pledge of security

given by a Muslim to an unbeliever. This is clearly a very serious offence because such a pledge, given by an individual Muslim, applies to the entire Muslim community.

Abu Hurayrah says in hadith No. 2929: ‘If I were to see deer roaming in Madinah, I would not scare them’. This is interpreted as the deer grazing or walking around. He would not cause them to flee.

In hadiths No. 2930 and 2931: ‘When people saw the early fruit, they would bring it to the Prophet (peace be upon him). God’s Messenger (peace be upon him) would take it and say: ‘Our Lord, bless our city for us, and our fruits, and our *mudd* and our *ṣāʿ*. A blessing followed by a blessing’. Scholars said that the people of Madinah used to do this hoping that the Prophet would supplicate for God to bless the fruit, the city and the measures they use. They also wanted to inform him that the fruit was now beginning to ripen, so that he would consider what needed to be done concerning the zakat due on them, and to send the zakat official to estimate the produce and the zakat liable on it.

‘He would then give it to the youngest child present.’ This tells of the Prophet’s perfect manners, limitless compassion and his care for both adults and children. He would give the fruit to the youngest child present because children would be looking forward to receiving it.

i. Related by al-Bukhari, 2129.
ii. Dar al-Salam does not include this hadith but refers to it briefly in the previous hadith.
iii. Related by al-Bukhari, 2889, 3367, 4084 and 7333; al-Tirmidhī, 3922.
iv. Related by al-Bukhari, 1867 and 7306.
v. Related by al-Bukhari, 2130 and 7331.
vi. Related by al-Bukhari, 1885.
vii. Related by al-Bukhari, 1870, 3172, 3179, 6755 and 7300; Abu Dāwūd, 2034; al-Tirmidhī, 2127.
viii. This hadith is stated separately by Lasheen only. In both *al-Muʿjam al-Mufahras* and Dar al-Salam’s edition it occurs as part of the previous hadith.

ix. Related by Abu Dāwūd, 5114.
x. Related by al-Bukhari, 1873; al-Tirmidhī, 3921.
xi. Related by al-Tirmidhī, 3454.
xii. Related by Ibn Mājah, 3329.

CHAPTER 86

THE DESIRABILITY OF LIVING IN MADINAH AND ENDURING ITS HARDSHIP

[2933–475]. (Dar al-Salam 3172) Ḥammād ibn Ismāʿīl ibn ʿUlayyah narrated: my father narrated; from Wuhayb; from Yaḥyā ibn Abi Isḥāq; that he was told from Abu Saʿīd, al-Mahrī's mawlā; that [at one time] they suffered much hardship. He went to see Abu Saʿīd al-Khudrī and said: **'I have a large family and we are in difficult times. I want to move some of my children to some rural area. Abu Saʿīd said: "Do not do it. Stay in Madinah. We travelled with the Prophet (peace be upon him) (I think he said) until we reached ʿUsfān where he stayed for several nights. People said: 'By God, we are not doing anything here, and our families have none to protect them. We fear for their safety'. The Prophet was informed of this. He said: 'What is this that I was told you said? (I am not sure how exactly he spoke). By Him I swear by, or by Him who holds my soul in His hand, I am thinking, or if you wish (I am unsure which one he said), I would order that my she-camel be prepared, and I would not let her rest until I reach Madinah'. He also said: 'My Lord, Abraham established the sanctity of Makkah and made it Ḥaram. I sanctify Madinah, making it a sanctity between its two mounts: that no blood may be shed in it, no arms are**

carried in it for fighting and no tree may be stripped except to feed [cattle]. My Lord, bless our city for us. My Lord, bless our *ṣā*ʿ for us. My Lord, bless our *mudd* for us. My Lord, bless our *ṣā*ʿ for us. My Lord, bless our *mudd* for us. My Lord, bless our city for us. My Lord, add with the blessing two more blessings. By Him who holds my soul in His hand, every passage and every approach leading to Madinah has two angels guarding it until you reach it'. He then said to the people: 'March on'. We marched and we arrived in Madinah. By Him we swear by, or by Him oaths are said (the doubt is Ḥammād's) we hardly put down our luggage in Madinah when the clan of ʿAbdullāh ibn Ghaṭafān launched a raid against us. Nothing stirred them before we arrived".'

حَدَّثَنَا حَمَّادُ بْنُ إِسْمَاعِيلَ بْنِ عُلَيَّةَ، حَدَّثَنَا أَبِي، عَنْ وُهَيْبٍ، عَنْ يَحْيَى بْنِ أَبِي إِسْحَاقَ، أَنَّهُ حَدَّثَ عَنْ أَبِي سَعِيدٍ، مَوْلَى الْـمَهْرِيِّ، أَنَّهُ أَصَابَهُمْ بِالْـمَدِينَةِ جَهْدٌ وَشِدَّةٌ. وَأَنَّهُ أَتَى أَبَا سَعِيدٍ الْخُدْرِيَّ فَقَالَ لَهُ إِنِّي كَثِيرُ الْعِيَالِ وَقَدْ أَصَابَتْنَا شِدَّةٌ، فَأَرَدْتُ أَنْ أَنْقُلَ عِيَالِي إِلَى بَعْضِ الرِّيفِ . فَقَالَ أَبُو سَعِيدٍ: لاَ تَفْعَلِ. الْزَمِ الْـمَدِينَةَ، فَإِنَّا خَرَجْنَا مَعَ نَبِيِّ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ - أَظُنُّ أَنَّهُ قَالَ - حَتَّى قَدِمْنَا عُسْفَانَ فَأَقَامَ بِهَا لَيَالِيَ فَقَالَ النَّاسُ: وَاللهِ مَا نَحْنُ هَاهُنَا فِي شَىْءٍ، وَإِنَّ عِيَالَنَا لَخُلُوفٌ مَا نَأْمَنُ عَلَيْهِمْ . فَبَلَغَ ذَلِكَ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ. فَقَالَ: «مَا هَذَا الَّذِي بَلَغَنِي مِنْ حَدِيثِكُمْ؟ - مَا أَدْرِي كَيْفَ قَالَ: وَالَّذِي أَحْلِفُ بِهِ أَوْ وَالَّذِي نَفْسِي بِيَدِهِ لَقَدْ هَمَمْتُ أَوْ إِنْ شِئْتُمْ - لاَ أَدْرِي أَيَّتَهُمَا قَالَ - لآمُرَنَّ بِنَاقَتِي تُرْحَلُ ثُمَّ لاَ أَحُلُّ لَهَا عُقْدَةً حَتَّى أَقْدَمَ الْـمَدِينَةَ» . وَقَالَ: «اللَّهُمَّ

إِنَّ إِبْرَاهِيمَ حَرَّمَ مَكَّةَ فَجَعَلَهَا حَرَمًا، وَإِنِّي حَرَّمْتُ الْـمَدِينَةَ حَرَامًا مَا بَيْنَ مَأْزِمَيْهَا: أَنْ لاَ يُهَرَاقَ فِيهَا دَمٌ، وَلاَ يُحْمَلَ فِيهَا سِلاَحٌ لِقِتَالٍ، وَلاَ يُخْبَطَ فِيهَا شَجَرَةٌ إِلاَّ لِعَلْفٍ. اللَّهُمَّ بَارِكْ لَنَا فِي مَدِينَتِنَا، اللَّهُمَّ بَارِكْ لَنَا فِي صَاعِنَا، اللَّهُمَّ بَارِكْ لَنَا فِي مُدِّنَا. اللَّهُمَّ بَارِكْ لَنَا فِي صَاعِنَا، اللَّهُمَّ بَارِكْ لَنَا فِي مُدِّنَا، اللَّهُمَّ بَارِكْ لَنَا فِي مَدِينَتِنَا. اللَّهُمَّ اجْعَلْ مَعَ الْبَرَكَةِ بَرَكَتَيْنِ. وَالَّذِي نَفْسِي بِيَدِهِ، مَا مِنَ الْـمَدِينَةِ شِعْبٌ وَلاَ نَقْبٌ إِلاَّ عَلَيْهِ مَلَكَانِ يَحْرُسَانِهَا، حَتَّى تَقْدَمُوا إِلَيْهَا» . ثُمَّ قَالَ لِلنَّاسِ: «ارْتَحِلُوا». فَارْتَحَلْنَا. فَأَقْبَلْنَا إِلَى الْـمَدِينَةِ. فَوَالَّذِي نَحْلِفُ بِهِ أَوْ يُحْلَفُ بِهِ - الشَّكُّ مِنْ حَمَّادٍ - مَا وَضَعْنَا رِحَالَنَا حِينَ دَخَلْنَا الْـمَدِينَةَ حَتَّى أَغَارَ عَلَيْنَا بَنُو عَبْدِ اللهِ بْنِ غَطَفَانَ، وَمَا يَهِيجُهُمْ قَبْلَ ذَلِكَ شَىْءٌ» .

[2934–476]. (Dar al-Salam 3173-3174) Zuhayr ibn Ḥarb narrated: Ismāʿīl ibn ʿUlayyah narrated; from ʿAlī ibn al-Mubārak; Yaḥyā ibn Abi Kathīr narrated; Abu Saʿīd, al-Mahrī’s mawlā narrated; from Abu Saʿīd al-Khudrī; that **‘God’s Messenger (peace be upon him) said: “Our Lord, bless our *ṣā*ʿ and *mudd* for us and add with the blessing two more blessings”.’**

وَحَدَّثَنَا زُهَيْرُ بْنُ حَرْبٍ، حَدَّثَنَا إِسْمَاعِيلُ بْنُ عُلَيَّةَ، عَنْ عَلِيِّ بْنِ الْـمُبَارَكِ، حَدَّثَنَا يَحْيَى بْنُ أَبِي كَثِيرٍ، حَدَّثَنَا أَبُو سَعِيدٍ مَوْلَى الْـمَهْرِيِّ، عَنْ أَبِي سَعِيدٍ الْخُدْرِيِّ، أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: «اللَّهُمَّ بَارِكْ لَنَا فِي صَاعِنَا وَمُدِّنَا، وَاجْعَلْ مَعَ الْبَرَكَةِ بَرَكَتَيْنِ» .

Abu Bakr ibn Abi Shaybah narrated: ʿUbaydullāh ibn Mūsā narrated; Shaybān reported [H]. Also, Isḥāq ibn Manṣūr narrated to

me; ʿAbd al-Ṣamad reported; Ḥarb (meaning ibn Shaddād) narrated; both from Yaḥyā ibn Abi Kathīr; with the same chain of transmission: **the same text.**

وَحَدَّثَنَاهُ أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا عُبَيْدُ اللهِ بْنُ مُوسَى، أَخْبَرَنَا شَيْبَانُ، ح. وَحَدَّثَنِي إِسْحَاقُ بْنُ مَنْصُورٍ، أَخْبَرَنَا عَبْدُ الصَّمَدِ، حَدَّثَنَا حَرْبٌ (يَعْنِي ابْنَ شَدَّادٍ)، كِلاَهُمَا عَنْ يَحْيَى بْنِ أَبِي كَثِيرٍ، بِهَذَا الإِسْنَادِ: مِثْلَهُ.

[2935–477]. (Dar al-Salam 3175) Qutaybah ibn Saʿīd narrated: Layth narrated; from Saʿīd ibn Abi Saʿīd; from Abu Saʿīd, al-Mahrī's mawlā, that he went to see Abu Saʿīd al-Khudrī at the time of al-Ḥarrah and sought his advice about moving out of Madinah. He complained about high prices and his large family. He further said that he could not endure the hardship of Madinah and its tough life. [Abu Saʿīd al-Khudrī] said to him: **'By no means! I certainly do not advise you to do that. I heard God's Messenger (peace be upon him) say: "Whoever endures its tough life and dies, I shall be his intercessor or witness on the Day of Judgement, if he is a Muslim".'**

وَحَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ، حَدَّثَنَا لَيْثٌ، عَنْ سَعِيدِ بْنِ أَبِي سَعِيدٍ، عَنْ أَبِي سَعِيدٍ مَوْلَى الْـمَهْرِيِّ، أَنَّهُ جَاءَ أَبَا سَعِيدٍ الْخُدْرِيَّ لَيَالِيَ الْحَرَّةِ، فَاسْتَشَارَهُ فِي الْجَلاَءِ مِنَ الْـمَدِينَةِ، وَشَكَا إِلَيْهِ أَسْعَارَهَا وَكَثْرَةَ عِيَالِهِ. وَأَخْبَرَهُ أَنْ لاَ صَبْرَ لَهُ عَلَى جَهْدِ الْـمَدِينَةِ وَلأْوَائِهَا. فَقَالَ لَهُ: وَيْحَكَ لاَ آمُرُكَ بِذَلِكَ. إِنِّي سَمِعْتُ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ يَقُولُ: «لا

يَصْبِرُ أَحَدٌ عَلَى لأْوَائِهَا فَيَمُوتَ، إِلاَّ كُنْتُ لَهُ شَفِيعًا أَوْ شَهِيدًا يَوْمَ الْقِيَامَةِ، إِذَا كَانَ مُسْلِمًا».

[2936–478]. (Dar al-Salam 3176) Abu Bakr ibn Abi Shaybah, Muhammad ibn ʿAbdullāh ibn Numayr and Abu Kurayb narrated: all from Abu Usāmah (Abu Bakr's and Ibn Numayr's text); both said: Abu Usāmah narrated; from al-Walīd ibn Kathīr; Saʿīd ibn ʿAbd al-Raḥmān ibn Abu Saʿīd al-Khudrī narrated to me; that ʿAbd al-Raḥmān narrated to him from his own father, Abu Saʿīd; that he heard God's Messenger (peace be upon him) say: **'I have established the sanctity of the area between the two black-stone areas just like Abraham established the sanctity of Makkah'. Moreover, if Abu Saʿīd used to see any of us holding a bird in our hand, he would take the bird out of our hand and let it fly.**

حَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، وَمُحَمَّدُ بْنُ عَبْدِ اللهِ بْنِ نُمَيْرٍ، وَأَبُو كُرَيْبٍ جَمِيعًا عَنْ أَبِي أُسَامَةَ (وَاللَّفْظُ لأَبِي بَكْرٍ وَابْنِ نُمَيْرٍ) قَالا: حَدَّثَنَا أَبُو أُسَامَةَ، عَنِ الْوَلِيدِ بْنِ كَثِيرٍ، حَدَّثَنِي سَعِيدُ بْنُ عَبْدِ الرَّحْمَنِ بْنِ أَبِي سَعِيدٍ الْخُدْرِيِّ، أَنَّ عَبْدَ الرَّحْمَنِ، حَدَّثَهُ عَنْ أَبِيهِ، أَبِي سَعِيدٍ، أَنَّهُ سَمِعَ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ يَقُولُ: «إِنِّي حَرَّمْتُ مَا بَيْنَ لاَبَتَيِ الْـمَدِينَةِ كَمَا حَرَّمَ إِبْرَاهِيمُ مَكَّةَ» . قَالَ: ثُمَّ كَانَ أَبُو سَعِيدٍ يَأْخُذُ - وَقَالَ أَبُو بَكْرٍ يَجِدُ - أَحَدَنَا فِي يَدِهِ الطَّيْرُ، فَيَفُكُّهُ مِنْ يَدِهِ، ثُمَّ يُرْسِلُهُ .

[2937–479]. (Dar al-Salam 3177) Abu Bakr ibn Abi Shaybah narrated: ʿAlī ibn Mushir narrated; from al-Shaybānī; from Yusayr ibn ʿAmr; from Sahl ibn Ḥunayf. He said: **'God's Messenger**

(peace be upon him) signalled with his hand indicating [the whole of] Madinah and said: “It is a secure sanctity”.’

وَحَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا عَلِيُّ بْنُ مُسْهِرٍ، عَنِ الشَّيْبَانِيِّ، عَنْ يُسَيْرِ بْنِ عَمْرٍو، عَنْ سَهْلِ بْنِ حُنَيْفٍ، قَالَ: أَهْوَى رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ بِيَدِهِ إِلَى الْـمَدِينَةِ فَقَالَ: «إِنَّهَا حَرَمٌ آمِنٌ» .

[2938–480]. (Dar al-Salam 3178-3179) Abu Bakr ibn Abi Shaybah narrated: ʿAbdah narrated; from Hishām; from his father; from ʿĀ’ishah. She said: **‘We arrived in Madinah when it had an infectious disease. Abu Bakr fell ill, as did Bilāl. When God’s Messenger saw the complaint of his Companions, he supplicated saying: “Our Lord, make Madinah as dear to us as Makkah, or even dearer, and make it a healthy place. Bless for us its *ṣā*ʿ and *mudd* and transfer its fever to al-Juḥfah”.’**

وَحَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا عَبْدَةُ، عَنْ هِشَامٍ، عَنْ أَبِيهِ، عَنْ عَائِشَةَ، قَالَتْ:، قَدِمْنَا الْـمَدِينَةَ وَهْيَ وَبِيئَةٌ. فَاشْتَكَى أَبُو بَكْرٍ، وَاشْتَكَى بِلاَلٌ. فَلَـمَّا رَأَى رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ شَكْوَى أَصْحَابِهِ قَالَ: «اللَّهُمَّ حَبِّبْ إِلَيْنَا الْـمَدِينَةَ كَمَا حَبَّبْتَ مَكَّةَ أَوْ أَشَدَّ، وَصَحِّحْهَا. وَبَارِكْ لَنَا فِي صَاعِهَا وَمُدِّهَا، وَحَوِّلْ حُمَّاهَا إِلَى الْجُحْفَةِ.

Abu Kurayb narrated:[i] Abu Usāmah and Ibn Numayr narrated; from Hishām ibn ʿUrwah; with the same chain of transmission: **a similar text.**

وَحَدَّثَنَا أَبُو كُرَيْبٍ، حَدَّثَنَا أَبُو أَسَامَةَ وَابْنُ نُمَيْرٍ، عَنْ هِشَامِ بْنِ عُرْوَةَ، بِهَذَا الإِسْنَادِ: نَحْوَهُ.

[2939–481]. (Dar al-Salam 3180) Zuhayr ibn Ḥarb narrated to me: ʿUthmān ibn ʿUmar narrated; ʿĪsā ibn Ḥafṣ ibn ʿĀṣim reported; Nāfiʿ narrated; from Ibn ʿUmar. He said: **‘I heard God’s Messenger (peace be upon him) say: “For whoever endures its tough life I shall be an intercessor or a witness on the Day of Judgement”.’**

حَدَّثَنِي زُهَيْرُ بْنُ حَرْبٍ، حَدَّثَنَا عُثْمَانُ بْنُ عُمَرَ، أَخْبَرَنَا عِيسَى بْنُ حَفْصِ بْنِ عَاصِمٍ، حَدَّثَنَا نَافِعٌ، عَنِ ابْنِ عُمَرَ، قَالَ: سَمِعْتُ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ يَقُولُ: «مَنْ صَبَرَ عَلَى لأْوَائِهَا كُنْتُ لَهُ شَفِيعًا أَوْ شَهِيدًا يَوْمَ الْقِيَامَةِ» .

[2940–482]. (Dar al-Salam 3181) Yaḥyā ibn Yaḥyā narrated: he said: I read out to Mālik; from Qaṭan ibn Wahb ibn ʿUwaymir ibn al-Ajdaʿ; from Yuḥannis, al-Zubayr’s mawlā, who reported to him that **he was sitting at ʿAbdullāh ibn ʿUmar’s place during the time of the strife when a freed slave of his came and greeted him. She then said: ‘Abu ʿAbd al-Raḥmān, I have decided to leave, the time has become hard for us’. ʿAbdullāh said to her: ‘Stay, silly one! I heard God’s Messenger (peace be upon him) say: “For anyone who patiently endures its tough life and hardship I shall be a witness or an intercessor on the Day of Judgement”.’**

حَدَّثَنَا يَحْيَى بْنُ يَحْيَى، قَالَ قَرَأْتُ عَلَى مَالِكٍ، عَنْ قَطَنِ بْنِ وَهْبِ بْنِ عُوَيْمِرِ بْنِ الأَجْدَعِ، عَنْ يُحَنِّسَ مَوْلَى الزُّبَيْرِ، أَخْبَرَهُ أَنَّهُ كَانَ جَالِسًا عِنْدَ عَبْدِ اللهِ بْنِ عُمَرَ فِي الْفِتْنَةِ، فَأَتَتْهُ مَوْلاَةٌ لَهُ تُسَلِّمُ عَلَيْهِ. فَقَالَتْ إِنِّي أَرَدْتُ الْخُرُوجَ يَا أَبَا عَبْدِ الرَّحْمَنِ. اشْتَدَّ عَلَيْنَا الزَّمَانُ . فَقَالَ لَهَا عَبْدُ اللهِ: اقْعُدِي لَكَاعِ، فَإِنِّي سَمِعْتُ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ يَقُولُ: «لا يَصْبِرُ عَلَى لأْوَائِهَا وَشِدَّتِهَا أَحَدٌ إِلاَّ كُنْتُ لَهُ شَهِيدًا أَوْ شَفِيعًا يَوْمَ الْقِيَامَةِ» .

[2941–483]. (Dar al-Salam 3182) Muhammad ibn Rāfiʿ narrated: Ibn Abi Fudayk narrated; al-Ḍaḥḥāk reported; from Qaṭan al-Khuzāʿī; from Yuḥannis, Muṣʿab’s mawlā; from ʿAbdullāh ibn ʿUmar. He said: **‘I heard God’s Messenger (peace be upon him) say: “On the Day of Judgement, I shall be a witness or an intercessor for everyone who patiently endures its tough life and hardship (meaning Madinah)”.’**

وَحَدَّثَنَا ابْنُ رَافِعٍ، حَدَّثَنَا ابْنُ أَبِي فُدَيْكٍ، أَخْبَرَنَا الضَّحَّاكُ، عَنْ قَطَنٍ الْخُزَاعِيِّ، عَنْ يُحَنِّسَ مَوْلَى مُصْعَبٍ، عَنْ عَبْدِ اللهِ بْنِ عُمَرَ، قَالَ: سَمِعْتُ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ يَقُولُ: «مَنْ صَبَرَ عَلَى لأْوَائِهَا وَشِدَّتِهَا كُنْتُ لَهُ شَهِيدًا أَوْ شَفِيعًا يَوْمَ الْقِيَامَةِ» . يَعْنِي الْـمَدِينَةَ.

[2942–484]. (Dar al-Salam 3183-3184) Yaḥyā ibn Ayyūb, Qutaybah and Ibn Ḥujr narrated: all from Ismāʿīl ibn Jaʿfar; from al-ʿAlā’ ibn ʿAbd al-Raḥmān; from his father; from Abu Hurayrah; that God’s Messenger (peace be upon him) said: **‘For anyone from my community who patiently endures the tough life and**

hardship of Madinah, I will stand as intercessor on the Day of Judgement, or a witness’.

وَحَدَّثَنَا يَحْيَى بْنُ أَيُّوبَ، وَقُتَيْبَةُ، وَابْنُ حُجْرٍ، جَمِيعًا عَنْ إِسْمَاعِيلَ بْنِ جَعْفَرٍ، عَنِ الْعَلاَءِ بْنِ عَبْدِ الرَّحْمَنِ، عَنْ أَبِيهِ، عَنْ أَبِي هُرَيْرَةَ، أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: «لا يَصْبِرُ عَلَى لأْوَاءِ الْـمَدِينَةِ وَشِدَّتِهَا أَحَدٌ مِنْ أُمَّتِي إِلاَّ كُنْتُ لَهُ شَفِيعًا يَوْمَ الْقِيَامَةِ، أَوْ شَهِيدًا» .

Ibn Abi ʿUmar narrated: Sufyān narrated; from Abu Ḥārūn Mūsā ibn Abi ʿĪsā; that he heard Abu ʿAbdullāh al-Qarrāẓ say: I heard Abu Hurayrah say: God’s Messenger (peace be upon him) said: **the same text.**

وَحَدَّثَنَا ابْنُ أَبِي عُمَرَ، حَدَّثَنَا سُفْيَانُ، عَنْ أَبِي هَارُونَ مُوسَى بْنِ أَبِي عِيسَى، أَنَّهُ سَمِعَ أَبَا عَبْدِ اللهِ الْقَرَّاظَ يَقُولُ: سَمِعْتُ أَبَا هُرَيْرَةَ يَقُولُ: قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ. بِمِثْلِهِ.

[2943–000]. (Dar al-Salam 3185) Yūsuf ibn ʿĪsā narrated:[ii] al-Faḍl ibn Mūsā narrated; Hishām ibn ʿUrwah reported; from Ṣāliḥ ibn Abi Ṣāliḥ; from his father; from Abu Hurayrah. He said: **‘I heard God’s Messenger (peace be upon him) say: “For whoever patiently endures the tough life of Madinah…”’ the same text.**

وَحَدَّثَنَا يُوسُفُ بْنُ عِيسَى، حَدَّثَنَا الْفَضْلُ بْنُ مُوسَى، أَخْبَرَنَا هِشَامُ بْنُ عُرْوَةَ، عَنْ صَالِحِ بْنِ أَبِي صَالِحٍ، عَنْ أَبِيهِ، عَنْ أَبِي هُرَيْرَةَ، قَالَ: قَالَ

رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «لا يَصْبِرُ أَحَدٌ عَلَى لأْوَاءِ الْـمَدِينَةِ... بِمِثْلِه.

Text Explanation

In the first hadith, No. 2933 a man seeks Abu Saʿīd al-Khudrī's advice about moving out of Madinah to settle in some rural area because he was finding life difficult in the city. Abu Saʿīd al-Khudrī advises him against this and relates to him what he witnessed during the Prophet's lifetime. They had travelled with the Prophet and stayed at ʿUsfān, a valley at a long distance from Madinah. As the days went by, they felt that there was no real purpose for their staying and they were worried about their families. As they put the matter to the Prophet, he told them that he would return immediately, travelling without a rest stop until they reached Madinah. He further told them about the sanctity he established for Madinah, in the same terms as Abraham made Makkah a sanctity. There may be no bloodshed in Madinah, and no one may carry arms for fighting. Trees may not be cut or forcibly stripped of their leaves, except that their leaves may be collected for feeding cattle. The Prophet then passionately prayed for Madinah to be blessed. The blessing of the weight and volume measures indicates good activity in the marketplace, which generates profit and enables people to earn their living. The Prophet then tells them that all approaches to Madinah are guarded by angels. This shows the privilege of Madinah and its being guarded during the Prophet's lifetime. Its guards were numerous so as to ensure that every passage and approach to it had angels guarding it.

Abu Saʿīd then says: 'We hardly put down our luggage in Madinah when the clan of ʿAbdullāh ibn Ghaṭafān launched a raid against us. Nothing stirred them before we arrived'. This means that when they were away with the Prophet, Madinah was guarded and protected, as the Prophet told them. However, when they arrived the Ghatafānī, people launched a raid against it. The raiders were close, but while the Prophet's Companions were away, they did not stir. There was no apparent reason for them not to launch their raid in the absence of its defenders. They were not preoccupied with any diversion, such as fearing a different enemy close by. The only

reason for their refrain from attacking the city was that it was guarded by angels, as the Prophet stated.

The attackers are described in the hadith as the clan of ʿAbdullāh ibn Ghaṭafān. In pre-Islamic days the clan was called Bani ʿAbd al-ʿUzzā, but the Prophet changed their name to Bani ʿAbdullāh. Other Arabs called them Bani Muḥawwalah, i.e., the name changers, but God knows best.

Hadith No. 2935 refers to the same story mentioning that the man consulted Abu Saʿīd al-Khudrī 'at the time of al-Ḥarrah'. This was a time of conflict and struggle for power, culminating in the caliph sending an army to suppress the uprising in Madinah in year 63 AH, 683 CE.

In hadith No. 2937, the Prophet describes Madinah as a 'secure sanctity'. This is further evidence confirming the prohibition of game hunting and tree cutting, as we discussed earlier.

ʿĀ'ishah mentions in hadith No. 2938 that when the Prophet's Companions arrived in Madinah, it had an infectious disease. The word she uses, *wabī'ah*, has two meanings: (1) a fatal epidemic, and (2) an infection that particularly affects strangers. It may be asked, how could the Prophet's Companions go to Madinah when it had an epidemic, when another hadith prohibits entering a city where an epidemic is rife? The first is that the prohibition was ordered later, after the Prophet and his Companions settled in Madinah. The other answer is that the prohibition applies to a serious epidemic, such as the plague. What Madinah had at the time was a viral infection, and strangers to the city were more likely to contract it, but God knows best.

The Prophet adds a supplication that its fever be transferred to al-Juḥfah. Al-Khaṭṭābī and others said: 'At the time, al-Juḥfah's residents were Jews. This means that it is permissible to pray to God to afflict unbelievers with diseases'.[iii] The hadith also shows the desirability for Muslims to pray for good health and a healthy environment, as well as to bless their cities and remove all hardship from them. This is the view of all scholars. *Qadi* ʿIyāḍ said: 'This is contrary to the view of some Sufis who claim that

supplication should not be made because it detracts from having trust and full reliance on God that should be coupled with accepting whatever comes from Him. It is also contrary to the view of the Muʿtazilah who say that supplication is of no use because Divine will is certain to be done. The right view of all scholars is that supplication is a separate act of worship and it is answered according to Divine decree, but God knows best.

This hadith includes a clear sign of the prophethood of Muhammad (peace be upon him). People have ever since avoided al-Juḥfah, and whoever drinks its water catches an infection.

In hadith No. 2940, Ibn ʿUmar says to the woman who wanted to leave Madinah as times became hard for her: ‘Stay, silly one!’ The Arabic word he uses in addressing her is *lakāʿ*, which is used to describe an ungrateful or a silly person and also to address a young girl. Ibn ʿUmar did not intend his word as a description of her mental status, but as a way of objecting to her decision, as she belonged to his people. He was actually urging her to stay in Madinah as her best option.

Scholars have said that the hadiths in this chapter, as well as earlier and later ones, give clear evidence of the merit of living in Madinah and enduring its tough life. This remains valid for all time. Scholars, however, differ as to the merit of living in Makkah and Madinah. Abu Ḥanīfah and a number of scholars have said that it is discouraged in Makkah. Conversely, Ahmad ibn Ḥanbal and a number of other scholars have said that residence in Makkah is not discouraged; indeed, it is desirable. Those who expressed undesirability give their reasons as fear of boredom, a weakening in the feeling of its sanctity, and a fear of committing sin because a sin there is graver than anywhere else. By contrast, a good deed done there is given a greatly multiplied reward. On the other hand, scholars who say that residence there is desirable cite in evidence the good deeds that are available there but nowhere else, and the multiple reward given to prayers and all good deeds, etc.

The preferred view is that residence in either city is desirable, except for one who thinks that he is more likely to commit sinful actions there. Countless people chose to reside in either place, right from the earliest generations until the present day, and many of those are devout and well worth emulating. If one chooses to reside in either city, one should take every precaution against committing what is forbidden or warned against. One should steer away from whatever leads to such sins, but God knows best.

i. Related by al-Bukhari, 1889.

ii. Related by al-Tirmidhī, 3924.

iii. There is practically no historic evidence that al-Juḥfah was populated by Jews at the time. It was a small village, surrounded by desert, and the Prophet most probably intended the desert area because he made al-Juḥfah the point where pilgrims from Syria start their consecration. The village was later deserted. Thus, the Prophet's prayer that the Madinah infection be transferred there was due to the fact that it would then affect very few people.

CHAPTER 87

THE PLAGUE AND THE IMPOSTOR ARE BARRED FROM MADINAH

[2944–485]. (Dar al-Salam 3186) Yaḥyā ibn Yaḥyā narrated:[i] he said: I read out to Mālik; from Nuʿaym ibn ʿAbdullāh; from Abu Hurayrah. He said: **‘God’s Messenger (peace be upon him) said: “Angel guards stand at the approaches of Madinah, ensuring that neither the plague nor the Impostor can enter it”.’**

حَدَّثَنَا يَحْيَى بْنُ يَحْيَى، قَالَ قَرَأْتُ عَلَى مَالِكٍ، عَنْ نُعَيْمِ بْنِ عَبْدِ اللهِ، عَنْ أَبِي هُرَيْرَةَ، قَالَ: قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «عَلَى أَنْقَابِ الْـمَدِينَةِ مَلاَئِكَةٌ، لاَ يَدْخُلُهَا الطَّاعُونُ وَلاَ الدَّجَّالُ» .

[2945–486]. (Dar al-Salam 3187) Yaḥyā ibn Ayyūb, Qutaybah and Ibn Ḥujr narrated: all from Ismāʿīl ibn Jaʿfar; al-ʿAlā’ reported to me; from his father; from Abu Hurayrah; that God’s Messenger (peace be upon him) said: **‘The Masīḥ comes from the east, heading for Madinah, until he stops at the back of Uḥud. The angels will turn his face towards Syria, where he will perish’.**

وَحَدَّثَنَا يَحْيَى بْنُ أَيُّوبَ، وَقُتَيْبَةُ، وَابْنُ حُجْرٍ، جَمِيعًا عَنْ إِسْمَاعِيلَ بْنِ جَعْفَرٍ، أَخْبَرَنِي الْعَلاَءُ، عَنْ أَبِيهِ، عَنْ أَبِي هُرَيْرَةَ، أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: «يَأْتِي الْـمَسِيحُ مِنْ قِبَلِ الْـمَشْرِقِ هِمَّتُهُ

الْـمَدِينَةُ، حَتَّى يَنْزِلَ دُبُرَ أَحُدٍ، ثُمَّ تَصْرِفُ الْـمَلاَئِكَةُ وَجْهَهُ قِبَلَ الشَّامِ، وَهُنَالِكَ يَهْلِكُ».

Text Explanation

Imam al-Nawawī only mentions here that these hadiths highlight the merit of Madinah and encourage residence there. The hadith also highlights that it is protected against the plague and the Impostor.

i. Related by al-Bukhari, 1880, 5731 and 7133.

CHAPTER 88

MADINAH EJECTS EVIL PEOPLE

[2946–487]. (Dar al-Salam 3188) Qutaybah ibn Saʿīd narrated: ʿAbd al-ʿAzīz (meaning al-Darāwardī) narrated; from al-ʿAlā’; from his father; from Abu Hurayrah; that God’s Messenger (peace be upon him) said: **‘People will witness a time when a person will call to his cousin and his relative: “Come over to a life of plenty, come over to a life of plenty”. But Madinah is better for them, if only they would realise. By Him who holds my soul in His hand, anyone who leaves it in preference for some other will be replaced by God by someone better. Madinah is like a fire which eliminates impurities. The Last Hour shall not occur until Madinah has expelled its evil ones, just like the fire [in a blacksmith’s forge] gets rid of iron impurities’.**

حَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ، حَدَّثَنَا عَبْدُ الْعَزِيزِ (يَعْنِي الدَّرَاوَرْدِيَّ)، عَنِ الْعَلاَءِ، عَنْ أَبِيهِ، عَنْ أَبِي هُرَيْرَةَ، أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: «يَأْتِي عَلَى النَّاسِ زَمَانٌ يَدْعُو الرَّجُلُ ابْنَ عَمِّهِ وَقَرِيبَهُ: هَلُمَّ إِلَى الرَّخَاءِ، هَلُمَّ إِلَى الرَّخَاءِ. وَالْـمَدِينَةُ خَيْرٌ لَهُمْ لَوْ كَانُوا يَعْلَمُونَ. وَالَّذِي نَفْسِي بِيَدِهِ لاَ يَخْرُجُ مِنْهُمْ أَحَدٌ رَغْبَةً عَنْهَا، إِلاَّ أَخْلَفَ اللهُ فِيهَا خَيْرًا مِنْهُ. أَلاَ إِنَّ الْـمَدِينَةَ كَالْكِيرِ تُخْرِجُ الْخَبِيثَ. لا تَقُومُ السَّاعَةُ حَتَّى تَنْفِيَ الْـمَدِينَةُ شِرَارَهَا، كَمَا يَنْفِي الْكِيرُ خَبَثَ الْحَدِيدِ».

[2947–488]. (Dar al-Salam 3189) Qutaybah ibn Saʿīd narrated:[i] from Mālik ibn Anas (in what was read out to him); from Yaḥyā ibn Saʿīd; he said: I heard Abu al-Ḥubāb Saʿīd ibn Yasār say; I heard Abu Hurayrah say; God's Messenger (peace be upon him) said: **'I was commanded to come to a town that devours other towns. They say it is Yathrib, but it is Madinah. It ejects people as the fire [in a blacksmith's forge] gets rid of iron impurities'.**

وَحَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ، عَنْ مَالِكِ بْنِ أَنَسٍ، فِيمَا قُرِئَ عَلَيْهِ، عَنْ يَحْيَى بْنِ سَعِيدٍ، قَالَ سَمِعْتُ أَبَا الْحُبَابِ، سَعِيدَ بْنَ يَسَارٍ يَقُولُ: سَمِعْتُ أَبَا هُرَيْرَةَ يَقُولُ: قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «أُمِرْتُ بِقَرْيَةٍ تَأْكُلُ الْقُرَى، يَقُولُونَ يَثْرِبَ وَهْىَ الْـمَدِينَةُ. تَنْفِي النَّاسَ كَمَا يَنْفِي الْكِيرُ خَبَثَ الْحَدِيدِ».

[2948–000]. (Dar al-Salam 3190) ʿAmr al-Nāqid and Ibn Abi ʿUmar narrated: both said: Sufyān narrated [H]. Also, Ibn al-Muthannā narrated; ʿAbd al-Wahhāb narrated; all from Yaḥyā ibn Saʿīd; with this chain of transmission. And both said: **'As the fire gets rid of impurity', without mentioning iron.**

وَحَدَّثَنَا عَمْرٌو النَّاقِدُ، وَابْنُ أَبِي عُمَرَ، قَالا: حَدَّثَنَا سُفْيَانُ، ح. وَحَدَّثَنَا ابْنُ الْـمُثَنَّى، حَدَّثَنَا عَبْدُ الْوَهَّابِ، جَمِيعًا عَنْ يَحْيَى بْنِ سَعِيدٍ، بِهَذَا الإِسْنَادِ. وَقَالا: «كَمَا يَنْفِي الْكِيرُ الْخَبَثَ» . لَمْ يَذْكُرَا الْحَدِيدَ.

[2949–489]. (Dar al-Salam 3191) Yaḥyā ibn Yaḥyā narrated:[ii] he said: I read out to Mālik; from Muhammad ibn al-Munkadir; from Jābir ibn ʿAbdullāh; that **'a Bedouin gave a pledge of allegiance**

to God’s Messenger (peace be upon him). The Bedouin then fell ill. He went to the Prophet and said: “Muhammad, release me from my pledge”. The Prophet refused. He went again and said: “Release me from my pledge”. The Prophet refused. He went once more and said: “Release me from my pledge”. The Prophet refused. The Bedouin then departed. God’s Messenger said: “Madinah is like a fire: it gets rid of impurity and lets the good element shine”.’

حَدَّثَنَا يَحْيَى بْنُ يَحْيَى، قَالَ قَرَأْتُ عَلَى مَالِكٍ، عَنْ مُحَمَّدِ بْنِ الْـمُنْكَدِرِ، عَنْ جَابِرِ بْنِ عَبْدِ اللهِ أَنَّ أَعْرَابِيًّا بَايَعَ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، فَأَصَابَ الأَعْرَابِيَّ وَعَكٌ بِالْـمَدِينَةِ. فَأَتَى النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَقَالَ: يَا مُحَمَّدُ أَقِلْنِي بَيْعَتِي . فَأَبَى رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ. ثُمَّ جَاءَهُ، فَقَالَ أَقِلْنِي بَيْعَتِي ، فَأَبَى. ثُمَّ جَاءَهُ فَقَالَ أَقِلْنِي بَيْعَتِي، فَأَبَى. فَخَرَجَ الأَعْرَابِيُّ، فَقَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «إِنَّمَا الْـمَدِينَةُ كَالْكِيرِ تَنْفِي خَبَثَهَا، وَيَنْصَعُ طَيِّبُهَا» .

[2950–490]. (Dar al-Salam 3192) ʿUbaydullāh ibn Muʿādh (who is al-ʿAnbarī) narrated:[iii] my father narrated; Shuʿbah narrated; from ʿAdiy (who is ibn Thābit); he heard ʿAbdullāh ibn Yazīd; from Zayd ibn Thābit; from the Prophet (peace be upon him). He said: **‘It is Ṭaybah (meaning Madinah) and it ejects evil just like fire eliminates the impurity of silver’.**

وَحَدَّثَنَا عُبَيْدُ اللهِ بْنُ مُعَاذٍ (وَهُوَ الْعَنْبَرِيُّ)، حَدَّثَنَا أَبِي، حَدَّثَنَا شُعْبَةُ، عَنْ عَدِيٍّ (وَهُوَ ابْنُ ثَابِتٍ)، سَمِعَ عَبْدَ اللهِ بْنَ يَزِيدَ، عَنْ زَيْدِ بْنِ ثَابِتٍ، عَنِ

النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: «إِنَّهَا طَيْبَةُ - يَعْنِي الْـمَدِينَةَ - وَإِنَّهَا تَنْفِي الْخَبَثَ، كَمَا تَنْفِي النَّارُ خَبَثَ الْفِضَّةِ» .

[2951–491]. (Dar al-Salam 3193) Qutaybah ibn Saʿīd, Hannād al-Sariy and Abu Bakr ibn Abi Shaybah narrated: they said: Abu al-Aḥwaṣ narrated; from Simāk; from Jābir ibn Samurah. He said: **‘I heard God’s Messenger (peace be upon him) say: “God, the Exalted, has named Madinah Ṭābah”.’**

وَحَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ، وَهَنَّادُ بْنُ السَّرِيِّ، وَأَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ قَالُوا: حَدَّثَنَا أَبُو الأَحْوَصِ، عَنْ سِمَاكٍ، عَنْ جَابِرِ بْنِ سَمُرَةَ، قَالَ: سَمِعْتُ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ يَقُولُ: «إِنَّ اللهَ تَعَالَى سَمَّى الْـمَدِينَةَ طَابَةَ» .

Text Explanation

These hadiths mention that Madinah expels bad people from its environs. *Qadi* ʿIyāḍ said: ‘The apparent meaning suggests that this applies to the Prophet’s lifetime. Only those who were firm in faith were able to endure the hardship of migration and the tough life that ensued in Madinah. Hypocrites and ignorant Bedouins could not tolerate this tough life in the hope of receiving God’s reward for it. The Bedouin mentioned in the hadith gives us an example as he requested the Prophet to release him from his pledge after he fell sick’.

This is what *Qadi* ʿIyāḍ said. However, that which he claimed to be the apparent meaning is not so apparent. The first hadith in this chapter states: ‘The Last Hour shall not occur until Madinah has expelled its evil ones, just like the fire [in a blacksmith’s forge] gets rid of iron impurities’. This points to the period of the Impostor, but God knows best. An authentic hadith mentioned towards the end of Muslim’s *Ṣaḥīḥ* anthology mentions that the Impostor travels towards Madinah, and Madinah will quake three times and God will eject from it every unbeliever and hypocrite. It is possible that the hadith refers to the time of the Impostor, but it is also possible that it refers to different periods of time, but God knows best.

In hadith No. 2947, the Prophet says: ‘I was commanded to come to a town that devours other towns’. This means that the Prophet was commanded to migrate to Madinah and make it his place of residence. Scholars give two meanings to its description as ‘devouring other towns’. The first is that Madinah was, in the early days of Islam, the centre and base of the Muslim armies. It was from Madinah that these armies set out, taking over other cities and receiving their resources and captives. The second meaning is that its provisions and income came from these other towns and cities that the Muslims took over.

The Prophet then says: ‘They say it is Yathrib, but it is Madinah’. This means that some hypocrites and others call it Yathrib,[iv] but its names are

Madinah, Ṭābah and Ṭaybah. This implies that calling it Yathrib is discouraged. A hadith related by Ahmad ibn Ḥanbal in his *al-Musnad* anthology makes it clear that calling it Yathrib is reprehensible. ʿĪsā ibn Dīnār is quoted as saying that ‘a person who calls it Yathrib incurs a recorded sin’. Scholars say that the discouragement behind calling it Yathrib is due to the fact that the name derives from a root that signifies ‘blame, remonstration, rebuke, etc.’. It is called Ṭaybah and Ṭābah because these names are pleasant to pronounce, and they are derived from a root that signifies a pleasant smell and perfume. The Prophet used to love pleasant names and disliked names with unpleasant meanings.

Madinah is referred to in the Qur’an as Yathrib, but this is merely quoting the hypocrites and others with sickness of the heart. Scholars say that the Prophet’s city has several names, the first of which is Madinah. God says in the Qur’an: ‘Some of the people of Madinah…’. (9: 101) and ‘It does not behove the people of Madinah’. (9: 120) Other names include Ṭābah, Ṭaybah and al-Dār. This last name means ‘the home’, and it is given this name because it is secure and stable. The other two names mean fine smell. It is also said that these two names are derived from *Ṭayyib*, which means ‘the pure’ because it was purified from disbelief in God’s Oneness.

Derivation of the word Madinah is either *dāna* or *madana*. The first means ‘to obey’, hence *dīn*, i.e., religion means obedience. The second means to stay in a place.

Hadith No. 2949 states: ‘A Bedouin gave a pledge of allegiance to God’s Messenger (peace be upon him). The Bedouin then fell ill. He went to the Prophet and said: “Muhammad, release me from my pledge”. The Prophet refused. He went again and said: “Release me from my pledge”. The Prophet refused. He went once more and said: “Release me from my pledge”. The Prophet refused. The Bedouin then departed. God’s Messenger said: “Madinah is like a fire: it gets rid of impurity and lets the good element shine”.’

Scholars say that the Prophet did not release him from his pledge because it is not permissible for one who embraces Islam to abandon it. Nor is it permissible for one who migrates to join the Prophet (peace be upon him) and who pledges to migrate to join him to abandon his migration and settle in his original place of abode or a different place. This Bedouin was one who migrated to join the Prophet and pledged to stay with him. *Qadi* ʿIyāḍ said: 'It is also possible that this Bedouin gave his pledge to the Prophet after the fall of Makkah, when migration to join the Prophet was over. Hence, his pledge was only the pledge of embracing Islam. Hence the Prophet did not release him'. The correct view, however, is the first one, but God knows best.

The hadith concludes with: 'Madinah is like a fire: it gets rid of impurity and lets the good element shine'. This means that those whose faith is complete and pure remain in Madinah, while those whose faith is suspect do not stay in Madinah.

Hadith No. 2951 quotes the Prophet: 'God, the Exalted, has named Madinah Ṭābah'. This means that calling it by this name is desirable, but this does not exclude using its other names. In several instances in the Qur'an, it is referred to as Madinah. Also, in hadith No. 2950 the Prophet calls it Ṭaybah. We explained the meanings of all these hadiths, but God knows best.

Transmission

The chain of transmission of hadith No. 2951 starts: ‘Qutaybah ibn Saʿīd, Hannād al-Sariy and Abu Bakr ibn Abi Shaybah narrated’. This is how it occurs in most copies. However, in some copies the name of Abu Kurayb is added after Hannād al-Sariy.

i. Related by al-Bukhari, 1871.
ii. Related by al-Bukhari, 7209, 7211 and 7322; al-Tirmidhī, 3920; al-Nasā’ī, 4196.
iii. Related by al-Bukhari in longer versions, 1884 and 4589; al-Tirmidhī in similar meaning and a longer version, 3028.
iv. Yathrib was the old name of Madinah. When the Prophet settled there it was called Madinat al-Nabiy, i.e., the Prophet’s city. It was subsequently referred to as ‘Madinah’ for short, which means ‘the city’.

CHAPTER 89

TO INTEND HARMING THE PEOPLE OF MADINAH

[2952–492]. (Dar al-Salam 3194) Muhammad ibn Ḥātim and Ibrāhīm ibn Dīnār narrated to me: both said: Ḥajjāj ibn Muhammad narrated [H]. Also, Muhammad ibn Rāfiʿ narrated to me: ʿAbd al-Razzāq narrated; both from Ibn Jurayj; ʿAbdullāh ibn ʿAbd al-Raḥmān ibn Yuḥannis reported to me; from Abu ʿAbdullāh al-Qarrāẓ; that he said: I bear witness that Abu Hurayrah said: Abu al-Qāsim (peace be upon him) said: **‘Whoever intends doing harm to the people of this city (meaning Madinah), God shall efface him just like salt is dissolved in water’.**

حَدَّثَنِي مُحَمَّدُ بْنُ حَاتِمٍ، وَإِبْرَاهِيمُ بْنُ دِينَارٍ، قَالا: حَدَّثَنَا حَجَّاجُ بْنُ مُحَمَّدٍ، ح. وَحَدَّثَنِي مُحَمَّدُ بْنُ رَافِعٍ، حَدَّثَنَا عَبْدُ الرَّزَّاقِ، كِلاَهُمَا عَنِ ابْنِ جُرَيْجٍ، أَخْبَرَنِي عَبْدُ اللهِ بْنُ عَبْدِ الرَّحْمَنِ بْنِ يُحَنِّسَ، عَنْ أَبِي عَبْدِ اللهِ الْقَرَّاظِ، أَنَّهُ قَالَ: أَشْهَدُ عَلَى أَبِي هُرَيْرَةَ أَنَّهُ قَالَ: قَالَ أَبُو الْقَاسِمِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «مَنْ أَرَادَ أَهْلَ هَذِهِ الْبَلْدَةِ بِسُوءٍ - يَعْنِي الْـمَدِينَةَ - أَذَابَهُ اللهُ، كَمَا يَذُوبُ الْمِلْحُ فِي الْـمَاءِ» .

[2953–493]. (Dar al-Salam 3195) Muhammad ibn Ḥātim and Ibrāhīm ibn Dīnār narrated to me: both said: Ḥajjāj narrated [H].

Also, Muhammad ibn Rāfiʿ narrated it to me: ʿAbd al-Razzāq narrated; all from Ibn Jurayj; he said: ʿAmr ibn Yaḥyā ibn ʿUmārah reported to me; that he heard al-Qarrāẓ (who was one of Abu Hurayrah's companions) claiming to have heard Abu Hurayrah say: **'God's Messenger (peace be upon him) said: "Whoever intends harming its people (meaning Madinah) God shall efface him as salt is dissolved in water".'**

Ibn Ḥātim said: **'In Ibn Yuḥannis' narration, the word 'harming' is replaced by the word 'evil'.**

وَحَدَّثَنِي مُحَمَّدُ بْنُ حَاتِمٍ، وَإِبْرَاهِيمُ بْنُ دِينَارٍ، قَالا: حَدَّثَنَا حَجَّاجٌ، ح. وَحَدَّثَنِيهِ مُحَمَّدُ بْنُ رَافِعٍ، حَدَّثَنَا عَبْدُ الرَّزَّاقِ، جَمِيعًا عَنِ ابْنِ جُرَيْجٍ، قَالَ: أَخْبَرَنِي عَمْرُو بْنُ يَحْيَى بْنِ عُمَارَةَ، أَنَّهُ سَمِعَ الْقَرَّاظَ، (وَكَانَ مِنْ أَصْحَابِ أَبِي هُرَيْرَةَ)، يَزْعُمُ أَنَّهُ سَمِعَ أَبَا هُرَيْرَةَ، يَقُولُ: قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «مَنْ أَرَادَ أَهْلَهَا بِسُوءٍ - يُرِيدُ الْـمَدِينَةَ - أَذَابَهُ اللهُ كَمَا يَذُوبُ الْمِلْحُ فِي الْـمَاءِ».

قَالَ ابْنُ حَاتِمٍ فِي حَدِيثِ ابْنِ يُحَنِّسَ بَدَلَ قَوْلِهِ بِسُوءٍ: شَرًّا.

[2954–000]. (Dar al-Salam 3196) Ibn Abi ʿUmar narrated: Sufyān narrated; from Abu Ḥārūn Mūsā ibn Abi ʿĪsā [H]. Also, Ibn Abi ʿUmar narrated; al-Darāwardī narrated; from Muhammad ibn ʿAmr; all heard Abu ʿAbdullāh al-Qarrāẓ; he heard Abu Hurayrah narrating from the Prophet: **the same text.**

حَدَّثَنَا ابْنُ أَبِي عُمَرَ، حَدَّثَنَا سُفْيَانُ، عَنْ أَبِي هَارُونَ مُوسَى بْنِ أَبِي عِيسَى ح. وَحَدَّثَنَا ابْنُ أَبِي عُمَرَ، حَدَّثَنَا الدَّرَاوَرْدِيُّ، عَنْ مُحَمَّدِ بْنِ

عَمْرٍو، جَمِيعًا: سَمِعَا أَبَا عَبْدِ اللهِ الْقَرَّاظَ، سَمِعَ أَبَا هُرَيْرَةَ، عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: بِمِثْلِهِ.

[2955–494]. (Dar al-Salam 3197) Qutaybah ibn Saʿīd narrated: Ḥātim (meaning ibn Ismāʿīl) narrated; from ʿUmar ibn Nubayh; Dīnār al-Qarrāẓ reported to me saying: I heard Saʿd ibn Abi Waqqāṣ say; **‘God’s Messenger (peace be upon him) said: “Whoever intends harming the people of Madinah, God will efface him like salt in water”.’**

حَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ، حَدَّثَنَا حَاتِمٌ (يَعْنِي ابْنَ إِسْمَاعِيلَ)، عَنْ عُمَرَ بْنِ نُبَيْهٍ، أَخْبَرَنِي دِينَارٌ الْقَرَّاظُ، قَالَ: سَمِعْتُ سَعْدَ بْنَ أَبِي وَقَّاصٍ يَقُولُ: قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «مَنْ أَرَادَ أَهْلَ الْـمَدِينَةِ بِسُوءٍ أَذَابَهُ اللهُ كَمَا يَذُوبُ الْمِلْحُ فِي الْـمَاءِ» .

[2956–000]. (Dar al-Salam 3198) Qutaybah ibn Saʿīd narrated: Ismāʿīl (meaning ibn Jaʿfar) narrated; from ʿUmar ibn Nubayh al-Kaʿbī; from Abu ʿAbdullāh al-Qarrāẓ; that he heard Saʿd ibn Mālik say: **‘God’s Messenger (peace be upon him) said…’ the same text, except that he said: ‘Whoever intends ill or harm for…’.**

وَحَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ، حَدَّثَنَا إِسْمَاعِيلُ (يَعْنِي ابْنَ جَعْفَرٍ)، عَنْ عُمَرَ بْنِ نُبَيْهٍ الْكَعْبِيِّ، عَنْ أَبِي عَبْدِ اللهِ الْقَرَّاظِ، أَنَّهُ سَمِعَ سَعْدَ بْنَ مَالِكٍ يَقُولُ: قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: بِمِثْلِهِ، غَيْرَ أَنَّهُ قَالَ: «بِدَهْمٍ أَوْ بِسُوءٍ» .

[2957–495]. (Dar al-Salam 3199) Abu Bakr ibn Abi Shaybah narrated: ʿUbaydullāh ibn Mūsā narrated; Usāmah ibn Zayd narrated; from Abu ʿAbdullāh al-Qarrāẓ; he said: I heard him say: I heard Abu Hurayrah and Saʿd say: God's Messenger (peace be upon him) said: **'My Lord, bless the *mudd* of the people of Madinah for them'. He continued the hadith and it included: 'Whoever harbours ill for its people, God will efface him like salt is dissolved in water'.**

وَحَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا عُبَيْدُ اللهِ بْنُ مُوسَى، حَدَّثَنَا أُسَامَةُ بْنُ زَيْدٍ، عَنْ أَبِي عَبْدِ اللهِ الْقَرَّاظِ، قَالَ: سَمِعْتُهُ يَقُولُ سَمِعْتُ أَبَا هُرَيْرَةَ وَسَعْدًا يَقُولاَنِ: قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «اللَّهُمَّ بَارِكْ لأَهْلِ الْـمَدِينَةِ فِي مُدِّهِمْ» . وَسَاقَ الْحَدِيثَ وَفِيهِ: «مَنْ أَرَادَ أَهْلَهَا بِسُوءٍ أَذَابَهُ اللهُ كَمَا يَذُوبُ الْمِلْحُ فِي الْـمَاءِ» .

Text Explanation

Considering that the meanings of these hadiths are included in the previous chapters, Imam al-Nawawī has very little to say about them. He merely states that ‘whoever intends harming the people of Madinah’ may be a reference to one who is aiming to attack it. However, other possibilities may also apply.

Transmission

The chain of transmission of hadith No. 4952 includes: ‘ʿAbdullāh ibn ʿAbd al-Raḥmān ibn Yuḥannis reported to me; from Abu ʿAbdullāh al-Qarrāẓ’. This is his correct name, and it is entered correctly in all copies in our areas and in most copies of the western provinces [i.e., North Africa and Andalusia]. However, in some copies, it occurs as ʿUbaydullāh, but this is wrong. His grandfather is Yuḥannis, but it is also pronounced as Yuḥannas.

Abu ʿAbdullāh al-Qarrāẓ’s name is Dīnār, as it occurs in the chain of hadith No. 2955. He is called al-Qarrāẓ because he sold the commodity called *qurẓ*, which is used in the tanning of animal hide.

CHAPTER 90

RESIDENCE IN MADINAH ENCOURAGED

[2958–496]. (Dar al-Salam 3200) Abu Bakr ibn Abi Shaybah narrated:[i] Wakīʿ narrated; from Hishām ibn ʿUrwah; from his father; from ʿAbdullāh ibn al-Zubayr; from Sufyān ibn Abi Zuhayr. He said: **‘God’s Messenger (peace be upon him) said: “Syria shall be liberated, and some people will leave Madinah in haste with their families. Madinah would have been better for them, had they but known. Then Yemen shall be liberated, and some people will leave Madinah in haste with their families. Madinah would have been better for them, had they but known. Then Iraq shall be liberated, and some people will leave Madinah in haste with their families. Madinah would have been better for them, had they but known”.’**

حَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا وَكِيعٌ، عَنْ هِشَامِ بْنِ عُرْوَةَ، عَنْ أَبِيهِ، عَنْ عَبْدِ اللهِ بْنِ الزُّبَيْرِ، عَنْ سُفْيَانَ بْنِ أَبِي زُهَيْرٍ، قَالَ: قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «يُفْتَحُ الشَّامُ، فَيَخْرُجُ مِنَ الْـمَدِينَةِ قَوْمٌ بِأَهْلِيهِمْ يَبُسُّونَ، وَالْـمَدِينَةُ خَيْرٌ لَهُمْ لَوْ كَانُوا يَعْلَمُونَ. ثُمَّ يُفْتَحُ الْيَمَنُ، فَيَخْرُجُ مِنَ الْـمَدِينَةِ قَوْمٌ بِأَهْلِيهِمْ يَبُسُّونَ، وَالْـمَدِينَةُ خَيْرٌ لَهُمْ لَوْ كَانُوا يَعْلَمُونَ. ثُمَّ يُفْتَحُ الْعِرَاقُ، فَيَخْرُجُ مِنَ الْـمَدِينَةِ قَوْمٌ بِأَهْلِيهِمْ يَبُسُّونَ، وَالْـمَدِينَةُ خَيْرٌ لَهُمْ لَوْ كَانُوا يَعْلَمُونَ».

[2959–497]. (Dar al-Salam 3201) Muhammad ibn Rāfiʿ narrated: ʿAbd al-Razzāq narrated; Ibn Jurayj reported; Hishām ibn ʿUrwah reported to me; from his father; from ʿAbdullāh ibn al-Zubayr; from Sufyān ibn Abi Zuhayr. He said: **‘I heard God’s Messenger (peace be upon him) say: “Yemen shall be liberated, and some people will come in haste carrying with them their families and whoever follows their lead. Yet Madinah would have been better for them, had they but known. Then Syria shall be liberated, and some people will come in haste carrying with them their families and whoever follows their lead. Yet Madinah would have been better for them, had they but known. Then Iraq shall be liberated, and some people will come in haste carrying with them their families and whoever follows their lead. Yet Madinah would have been better for them, had they but known”.’**

حَدَّثَنَا مُحَمَّدُ بْنُ رَافِعٍ، حَدَّثَنَا عَبْدُ الرَّزَّاقِ، أَخْبَرَنَا ابْنُ جُرَيْجٍ، أَخْبَرَنِي هِشَامُ بْنُ عُرْوَةَ، عَنْ أَبِيهِ، عَنْ عَبْدِ اللهِ بْنِ الزُّبَيْرِ، عَنْ سُفْيَانَ بْنِ أَبِي زُهَيْرٍ، قَالَ: سَمِعْتُ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ يَقُولُ: «يُفْتَحُ الْيَمَنُ، فَيَأْتِي قَوْمٌ يَبُسُّونَ، فَيَتَحَمَّلُونَ بِأَهْلِيهِمْ وَمَنْ أَطَاعَهُمْ وَالْـمَدِينَةُ خَيْرٌ لَهُمْ لَوْ كَانُوا يَعْلَمُونَ. ثُمَّ يُفْتَحُ الشَّامُ، فَيَأْتِي قَوْمٌ يَبُسُّونَ، فَيَتَحَمَّلُونَ بِأَهْلِيهِمْ وَمَنْ أَطَاعَهُمْ وَالْـمَدِينَةُ خَيْرٌ لَهُمْ لَوْ كَانُوا يَعْلَمُونَ. ثُمَّ يُفْتَحُ الْعِرَاقُ، فَيَأْتِي قَوْمٌ يَبُسُّونَ، فَيَتَحَمَّلُونَ بِأَهْلِيهِمْ وَمَنْ أَطَاعَهُمْ وَالْـمَدِينَةُ خَيْرٌ لَهُمْ لَوْ كَانُوا يَعْلَمُونَ».

Text Explanation

In both versions of this hadith, the Prophet uses the word *yabussūn* or *yubissūn*, which is rendered as leaving or coming ‘in haste’. Linguists explain it in several ways. Ibrāhīm al-Ḥarbī says it means they encourage people to leave and settle in more fertile lands. Abu ʿUbayd says it means they drive their camels. Ibn Wahb says it means they speak to people about the more comfortable life in these areas, encouraging them to leave Madinah and settle there. This is as mentioned in hadith No. 2946, in which the Prophet says: ‘People will witness a time when a person will call to his cousin and his relative: “Come over to a life of plenty”.’ Al-Dāwūdī says it means that people drive their mounts to Madinah, raising dust behind them, and they tempt the residents of Madinah to migrate as they speak to them about the easy life in these areas. This meaning is far-fetched, or rather false. The correct meaning is that the Prophet is speaking of people who would carry their families and travel in haste to these areas of plenty, which the Prophet said would be liberated from their oppressive rulers.

Scholars have said that this hadith includes a miracle as the Prophet tells of the liberation of these areas, and that people will leave Madinah and migrate, with their families, in haste. These areas were definitely liberated in the order the Prophet mentioned. All this took place, by the grace of God. All praise is due to Him. The hadiths again highlight the merit of residing in Madinah, enduring its tough life and the hardships involved in living there.

i. Related by al-Bukhari, 1875.

CHAPTER 91

WHEN THE PEOPLE OF MADINAH WILL LEAVE

[2960–498]. (Dar al-Salam 3202) Zuhayr ibn Ḥarb narrated to me: Abu Ṣafwān narrated; from Yūnus ibn Yazīd [H]. Also, Ḥarmalah ibn Yaḥyā narrated to me (his text); Ibn Wahb reported; Yūnus reported to me; from Ibn Shihāb; from Saʿīd ibn al-Musayyib; that he heard Abu Hurayrah say: **‘God’s Messenger (peace be upon him) said about Madinah: “Its people will leave when it is in its best condition, making it available to the wild”, meaning wild animals and birds.**

Muslim said: **‘Abu Ṣafwān is ʿAbdullāh ibn ʿAbd al-Malik, the orphan Ibn Jurayj took under his care, looking after him for ten years’.**

حَدَّثَنِي زُهَيْرُ بْنُ حَرْبٍ، حَدَّثَنَا أَبُو صَفْوَانَ، عَنْ يُونُسَ بْنِ يَزِيدَ، ح. وَحَدَّثَنِي حَرْمَلَةُ بْنُ يَحْيَى (وَاللَّفْظُ لَهُ)، أَخْبَرَنَا ابْنُ وَهْبٍ، أَخْبَرَنِي يُونُسُ، عَنِ ابْنِ شِهَابٍ، عَنْ سَعِيدِ بْنِ الْـمُسَيَّبِ، أَنَّهُ سَمِعَ أَبَا هُرَيْرَةَ يَقُولُ: قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ لِلْـمَدِينَةِ: «لَيَتْرُكَنَّهَا أَهْلُهَا عَلَى خَيْرِ مَا كَانَتْ مُذَلَّلَةً لِلْعَوَافِي»، يَعْنِي السِّبَاعَ وَالطَّيْرَ .

قَالَ مُسْلِمٌ: أَبُو صَفْوَانَ هَذَا هُوَ عَبْدُ اللهِ بْنُ عَبْدِ الْـمَلِكِ، يَتِيمُ ابْنُ جُرَيْجٍ. عَشْرَ سِنِينَ كَانَ فِي حَجْرِهِ.

[2961–499]. (Dar al-Salam 3203) ʿAbd al-Malik ibn Shuʿayb ibn al-Layth narrated to me: my father narrated to me; from my grandfather; ʿUqayl ibn Khālid narrated to me; from Ibn Shihāb; he said: Saʿīd ibn al-Musayyib reported to me; that Abu Hurayrah said: **‘I heard God’s Messenger (peace be upon him) say: “They will leave Madinah in its best condition. Only the wild (meaning wild animals and birds) haunt it. Then two shepherds from Muzaynah set out aiming for Madinah, shouting at their sheep. They will find it deserted. When they reach Thaniyyat al-Wadāʿ, they will drop on their face”.’**

وَحَدَّثَنِي عَبْدُ الْـمَلِكِ بْنُ شُعَيْبِ بْنِ اللَّيْثِ، حَدَّثَنِي أَبِي، عَنْ جَدِّي، حَدَّثَنِي عُقَيْلُ بْنُ خَالِدٍ، عَنِ ابْنِ شِهَابٍ أَنَّهُ قَالَ: أَخْبَرَنِي سَعِيدُ بْنُ الْـمُسَيَّبِ، أَنَّ أَبَا هُرَيْرَةَ قَالَ: سَمِعْتُ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ يَقُولُ: «يَتْرُكُونَ الْـمَدِينَةَ عَلَى خَيْرِ مَا كَانَتْ لا يَغْشَاهَا إِلاَّ الْعَوَافِي - يُرِيدُ عَوَافِيَ السِّبَاعِ وَالطَّيْرِ - ثُمَّ يَخْرُجُ رَاعِيَانِ مِنْ مُزَيْنَةَ، يُرِيدَانِ الْـمَدِينَةَ يَنْعِقَانِ بِغَنَمِهِمَا، فَيَجِدَانِهَا وَحْشًا. حَتَّى إِذَا بَلَغَا ثَنِيَّةَ الْوَدَاعِ خَرَّا عَلَى وُجُوهِهِمَا».

Text Explanation

It appears that the Prophet is speaking about an event that will occur close to the Last Hour when the Day of Judgement is imminent. This is clear from the mention of the two shepherds from Muzaynah. They drop on their faces as they are overtaken by the Last Hour. They are the last to be resurrected as confirmed in al-Bukhari's *Ṣaḥīḥ*. This is the apparent meaning and is the one that we choose.

Qadi ʿIyāḍ said: 'This is what happened in the early period of Islam. This is one of the miracles of the Prophet. Madinah was left in its best condition when the capital of the Muslim state, the seat of the caliphate, moved to Syria, then to Iraq. At that time, Madinah was in its best condition from the viewpoints of faith and living conditions. As for faith, it had a large number of scholars who attained the highest grades, and as for conditions, it was well populated, well cultivated and its people lived in plenty'. He added that historians mention this because of the events of strife that subsequently occurred, when people were in fear and most people of Madinah left, abandoning its farm produce, or most of it, to wild animals. It was deserted for a while, then people started to return. Its condition today is close to this, with its outskirts ruined'. This is what *Qadi* ʿIyāḍ said, but God knows best.

In the second hadith, the Prophet says that the two shepherds will find Madinah deserted. The Prophet used the word *waḥsh* to indicate such desertion. Ibrāhīm al-Ḥarbī says that when it describes a land, this word means empty. The correct meaning of the hadith is that they find wild animals in it, as mentioned in al-Bukhari's version. The same word *waḥsh* means 'beast'. It originally refers to any animal that cannot be domesticated. Ibn al-Murābiṭ is quoted by *Qadi* ʿIyāḍ as mentioning that the shepherds will find that their own sheep became wild, either they are transformed into beasts, or that they become uncontrollable, scared by noises. *Qadi* ʿIyāḍ disagrees with this interpretation, stating that the

pronoun in ‘they find it deserted’ applies to Madinah, not to the sheep. This is correct, and Ibn al-Murābiṭ’s explanation is wrong, but God knows best.

CHAPTER 92

A GARDEN OF HEAVEN

[2962–500]. (Dar al-Salam 3204) Qutaybah ibn Saʿīd narrated:[i] from Mālik ibn Anas in what was read out to him; from ʿAbdullāh ibn Abu Bakr; from ʿAbbād ibn Tamīm; from ʿAbdullāh ibn Zayd al-Māzinī; that God's Messenger (peace be upon him) said: **'The place between my home and my platform [i.e., *minbar*] is one of the gardens of Heaven'.**

حَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ، عَنْ مَالِكِ بْنِ أَنَسٍ، فِيمَا قُرِئَ عَلَيْهِ، عَنْ عَبْدِ اللهِ بْنِ أَبِي بَكْرٍ، عَنْ عَبَّادِ بْنِ تَمِيمٍ، عَنْ عَبْدِ اللهِ بْنِ زَيْدٍ الْـمَازِنِيِّ، أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: «مَا بَيْنَ بَيْتِي وَمِنْبَرِي رَوْضَةٌ مِنْ رِيَاضِ الْجَنَّةِ» .

[2963–501]. (Dar al-Salam 3205) Yaḥyā ibn Yaḥyā narrated: ʿAbd al-ʿAzīz ibn Muhammad al-Madanī reported; from Yazīd ibn al-Hād; from Abu Bakr; from ʿAbbād ibn Tamīm; from ʿAbdullāh ibn Zayd al-Anṣārī; that he heard God's Messenger (peace be upon him) say: **'In between my platform and my home is a garden of Heaven'.**

وَحَدَّثَنَا يَحْيَى بْنُ يَحْيَى، أَخْبَرَنَا عَبْدُ الْعَزِيزِ بْنُ مُحَمَّدٍ الْـمَدَنِيُّ، عَنْ يَزِيدَ بْنِ الْهَادِ، عَنْ أَبِي بَكْرٍ، عَنْ عَبَّادِ بْنِ تَمِيمٍ، عَنْ عَبْدِ اللهِ بْنِ زَيْدٍ

الأَنْصَارِيِّ، أَنَّهُ سَمِعَ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ يَقُولُ: «مَا بَيْنَ مِنْبَرِي وَبَيْتِي رَوْضَةٌ مِنْ رِيَاضِ الْجَنَّةِ» .

[2964–502]. (Dar al-Salam 3206) Zuhayr ibn Ḥarb and Muhammad ibn al-Muthannā narrated:[ii] both said: Yaḥyā ibn Saʿīd narrated; from ʿUbaydullāh [H]. Also, Ibn Numayr narrated; my father narrated; ʿUbaydullāh narrated; from Khubayb ibn ʿAbd al-Raḥmān; from Ḥafṣ ibn ʿĀṣim; from Abu Hurayrah that God's Messenger (peace be upon him) said: **'The place in between my home and my platform is one of the gardens of Heaven. My platform is over my pond'.**

حَدَّثَنَا زُهَيْرُ بْنُ حَرْبٍ، وَمُحَمَّدُ بْنُ الْـمُثَنَّى، قَالا: حَدَّثَنَا يَحْيَى بْنُ سَعِيدٍ، عَنْ عُبَيْدِ اللهِ ح. وَحَدَّثَنَا ابْنُ نُمَيْرٍ، حَدَّثَنَا أَبِي، حَدَّثَنَا عُبَيْدُ اللهِ، عَنْ خُبَيْبِ بْنِ عَبْدِ الرَّحْمَنِ، عَنْ حَفْصِ بْنِ عَاصِمٍ، عَنْ أَبِي هُرَيْرَةَ، أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: «مَا بَيْنَ بَيْتِي وَمِنْبَرِي رَوْضَةٌ مِنْ رِيَاضِ الْجَنَّةِ، وَمِنْبَرِي عَلَى حَوْضِي» .

Text Explanation

Scholars have explained this hadith in two ways: 1) that the place itself will be transferred into Heaven, and 2) that worship there leads to Heaven. Al-Ṭabarī said that ‘my home’ in this context is interpreted in two ways. One interpretation mentioned by Zayd ibn Aslam is that it means the Prophet’s grave. The other interpretation is that it means his actual home. Al-Ṭabarī adds that the two interpretations are consistent with each other because the Prophet was buried in his own apartment.

In the last hadith the Prophet said: ‘My platform, i.e., *minbar*, is over my pond’. *Qadi* ʿIyāḍ said: ‘The majority of scholars are in agreement that the statement refers to the platform on which he stood in his lifetime. This is the more apparent meaning. Many scholars deny that it means anything else. However, some say that on the Day of Judgement the Prophet will have a platform over his pool. It is also said that to aim to be close to his platform and do good deeds will set the way open to reach his pool and drink from it, but God knows best.’

i. Related by al-Bukhari, 1195.

ii. Related by al-Bukhari, 1196, 1888, 6588 and 7335.

CHAPTER 93

WE LOVE THIS MOUNTAIN

[2965–503]. (Dar al-Salam 3207) ʿAbdullāh ibn Maslamah al-Qaʿnabī narrated:[i] Sulaymān ibn Bilāl narrated; from ʿAmr ibn Yaḥyā; from ʿAbbās ibn Sahl al-Sāʿidī; from Abu Ḥumayd. He said: **‘We travelled with God’s Messenger on the Tabuk Expedition…’ and he narrated the hadith, then said: ‘We continued our travel until we reached Wādi al-Qurā. God’s Messenger said: “I shall move at speed. Whoever of you wishes to join me may do so, and whoever wishes to stay behind may do so”. We went on until we were close to Madinah. The Prophet said: “This is Ṭābah, and this is Uḥud: a mountain that loves us, and we love it”.’**

حَدَّثَنَا عَبْدُ اللهِ بْنُ مَسْلَمَةَ الْقَعْنَبِيُّ، حَدَّثَنَا سُلَيْمَانُ بْنُ بِلاَلٍ، عَنْ عَمْرِو بْنِ يَحْيَى، عَنْ عَبَّاسِ بْنِ سَهْلٍ السَّاعِدِيِّ، عَنْ أَبِي حُمَيْدٍ قَالَ: خَرَجْنَا مَعَ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فِي غَزْوَةِ تَبُوكَ... وَسَاقَ الْحَدِيثَ، وَفِيهِ: ثُمَّ أَقْبَلْنَا حَتَّى قَدِمْنَا وَادِيَ الْقُرَى، فَقَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «إِنِّي مُسْرِعٌ، فَمَنْ شَاءَ مِنْكُمْ فَلْيُسْرِعْ مَعِي، وَمَنْ شَاءَ فَلْيَمْكُثْ». فَخَرَجْنَا حَتَّى أَشْرَفْنَا عَلَى الْـمَدِينَةِ، فَقَالَ: «هَذِهِ طَابَةُ، وَهَذَا أُحُدٌ وَهُوَ جَبَلٌ يُحِبُّنَا وَنُحِبُّهُ» .

[2966–504]. (Dar al-Salam 3208) ʿUbaydullāh ibn Muʿādh narrated:[ii] my father narrated; Qurrah ibn Khālid narrated; from Qatādah; from Anas ibn Mālik who said: **‘God’s Messenger (peace be upon him) said: “Uhud is a mountain that loves us, and we love it”.’**

حَدَّثَنَا عُبَيْدُ اللهِ بْنُ مُعَاذٍ، حَدَّثَنَا أَبِي، حَدَّثَنَا قُرَّةُ بْنُ خَالِدٍ، عَنْ قَتَادَةَ، حَدَّثَنَا أَنَسُ بْنُ مَالِكٍ قَالَ: قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «إِنَّ أُحُدًا جَبَلٌ يُحِبُّنَا وَنُحِبُّهُ» .

[2967–000].[iii] ʿUbaydullāh ibn ʿUmar al-Qawārīrī narrated it to me: Ḥaramī ibn ʿUmārah narrated to me; Qurrah narrated; from Qatādah; from Anas. He said: **‘God’s Messenger (peace be upon him) looked at Uhud and said: “For certain, Uhud is a mountain that loves us, and we love it”.’**

وَحَدَّثَنِيهِ عُبَيْدُ اللهِ بْنُ عُمَرَ الْقَوَارِيرِيُّ، حَدَّثَنِي حَرَمِيُّ بْنُ عُمَارَةَ، حَدَّثَنَا قُرَّةُ، عَنْ قَتَادَةَ، عَنْ أَنَسٍ قَالَ: نَظَرَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ إِلَى أُحُدٍ فَقَالَ: «إِنَّ أُحُدًا جَبَلٌ يُحِبُّنَا وَنُحِبُّهُ» .

Text Explanation

In these hadiths the Prophet states that a love relationship exists between Mount Uhud, which overlooks Madinah, and the Muslim community. Scholars have said that it means that the people of the mountain, who are the people of Madinah, have this mutual loving relationship with the Prophet. The true meaning is the apparent one which means that the mountain itself has been given a special quality by God, enabling it to distinguish between people and to love the Muslim community. We explained this hadith earlier, but God knows best.

i. Related by al-Bukhari, 1872, 4422 and in part only 3791; Abu Dāwūd in a longer version and similar wording 3079.
ii. Related by al-Bukhari, 4083.
iii. In Dar al-Salam's edition, this hadith is attached to the one before it.

CHAPTER 94

PRAYER IN THE TWO MOSQUES OF MAKKAH AND MADINAH

[2968–505]. (Dar al-Salam 3209) ʿAmr al-Nāqid and Zuhayr ibn Ḥarb narrated (ʿAmr's text):[i] both said: Sufyān ibn ʿUyaynah narrated; from al-Zuhrī; from Saʿīd ibn al-Musayyib; from Abu Hurayrah, going up to the Prophet (peace be upon him). He said: **'One prayer in this my mosque is better than one thousand prayers elsewhere, except for the Inviolable Mosque'.**

حَدَّثَنِي عَمْرٌو النَّاقِدُ، وَزُهَيْرُ بْنُ حَرْبٍ (وَاللَّفْظُ لِعَمْرٍو) قَالا: حَدَّثَنَا سُفْيَانُ بْنُ عُيَيْنَةَ، عَنِ الزُّهْرِيِّ، عَنْ سَعِيدِ بْنِ الْـمُسَيَّبِ، عَنْ أَبِي هُرَيْرَةَ، يَبْلُغُ بِهِ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: «صَلاَةٌ فِي مَسْجِدِي هَذَا أَفْضَلُ مِنْ أَلْفِ صَلاَةٍ فِيمَا سِوَاهُ إِلاَّ الْـمَسْجِدَ الْحَرَامَ» .

[2969–506]. (Dar al-Salam 3210) Muhammad ibn Rāfiʿ and ʿAbd ibn Ḥumayd narrated to me: ʿAbd al-Razzāq (ʿAbd said: 'reported' and Ibn Rāfiʿ said: 'narrated'); Maʿmar reported; from al-Zuhrī; from Saʿīd ibn al-Musayyib; from Abu Hurayrah. He said: **'God's Messenger (peace be upon him) said: "One prayer in this my mosque is better than one thousand prayers in other mosques, except for the Inviolable Mosque".'**

حَدَّثَنِي مُحَمَّدُ بْنُ رَافِعٍ، وَعَبْدُ بْنُ حُمَيْدٍ. (قَالَ عَبْدٌ أَخْبَرَنَا وَقَالَ ابْنُ رَافِعٍ حَدَّثَنَا) عَبْدُ الرَّزَّاقِ، أَخْبَرَنَا مَعْمَرٌ، عَنِ الزُّهْرِيِّ، عَنْ سَعِيدِ بْنِ الْـمُسَيَّبِ، عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «صَلاَةٌ فِي مَسْجِدِي هَذَا خَيْرٌ مِنْ أَلْفِ صَلاَةٍ فِي غَيْرِهِ مِنَ الْـمَسَاجِدِ، إِلاَّ الْـمَسْجِدَ الْحَرَامَ» .

[2970–507]. (Dar al-Salam 3211) Isḥāq ibn Manṣūr narrated to me:[ii] ʿĪsā ibn al-Mundhir al-Ḥimṣī narrated; Muhammad ibn Ḥarb narrated; al-Zubaydī narrated; from al-Zuhrī; from Abu Salamah ibn ʿAbd al-Raḥmān and Abu ʿAbdullāh al-Agharr, the Juhaynīs mawlā (who was a companion of Abu Hurayrah); that they both heard Abu Hurayrah say: **‘A prayer in God’s Messenger’s Mosque is better than one thousand prayers in other mosques except the Inviolable Mosque. God’s Messenger is the last of the prophets and his mosque is the last mosque’.**

Abu Salamah and Abu ʿAbdullāh said: **‘We had no doubt that Abu Hurayrah was stating a hadith by God’s Messenger (peace be upon him), and because of this we did not confirm with Abu Hurayrah that it was a hadith. After Abu Hurayrah died, we discussed this and blamed ourselves for not having checked with Abu Hurayrah so that he could attribute the words to God’s Messenger, stating if he had heard it from him. As we were thus engaged, ʿAbdullāh ibn Ibrāhīm ibn Qāriẓ joined us. We mentioned the hadith and what we neglected of its confirmation with Abu Hurayrah. ʿAbdullāh ibn Ibrāhīm said to us: “I bear witness that I heard Abu Hurayrah say: ‘God’s**

Messenger (peace be upon him) said: “I am the last of prophets and my mosque is the last mosque”.’””

حَدَّثَنِي إِسْحَاقُ بْنُ مَنْصُورٍ، حَدَّثَنَا عِيسَى بْنُ الْـمُنْذِرِ الْحِمْصِيُّ، حَدَّثَنَا مُحَمَّدُ بْنُ حَرْبٍ، حَدَّثَنَا الزُّبَيْدِيُّ، عَنِ الزُّهْرِيِّ، عَنْ أَبِي سَلَمَةَ بْنِ عَبْدِ الرَّحْمَنِ، وَأَبِي عَبْدِ اللهِ الأَغَرِّ مَوْلَى الْجُهَنِيِّينَ وَكَانَ مِنْ أَصْحَابِ أَبِي هُرَيْرَةَ، أَنَّهُمَا سَمِعَا أَبَا هُرَيْرَةَ يَقُولُ: صَلاَةٌ فِي مَسْجِدِ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ أَفْضَلُ مِنْ أَلْفِ صَلاَةٍ فِيمَا سِوَاهُ مِنَ الْـمَسَاجِدِ، إِلاَّ الْـمَسْجِدَ الْحَرَامَ فَإِنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ آخِرُ الأَنْبِيَاءِ وَإِنَّ مَسْجِدَهُ آخِرُ الْـمَسَاجِدِ .

قَالَ أَبُو سَلَمَةَ وَأَبُو عَبْدِ اللهِ لَمْ نَشُكَّ أَنَّ أَبَا هُرَيْرَةَ كَانَ يَقُولُ عَنْ حَدِيثِ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، فَمَنَعَنَا ذَلِكَ أَنْ نَسْتَثْبِتَ أَبَا هُرَيْرَةَ عَنْ ذَلِكَ الْحَدِيثِ، حَتَّى إِذَا تُوُفِّيَ أَبُو هُرَيْرَةَ تَذَاكَرْنَا ذَلِكَ، وَتَلاَوَمْنَا أَنْ لاَ نَكُونَ كَلَّمْنَا أَبَا هُرَيْرَةَ فِي ذَلِكَ حَتَّى يُسْنِدَهُ إِلَى رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ إِنْ كَانَ سَمِعَهُ مِنْهُ. فَبَيْنَا نَحْنُ عَلَى ذَلِكَ جَالَسَنَا عَبْدُ اللهِ بْنُ إِبْرَاهِيمَ بْنِ قَارِظٍ، فَذَكَرْنَا ذَلِكَ الْحَدِيثَ وَالَّذِي فَرَّطْنَا فِيهِ مِنْ نَصِّ أَبِي هُرَيْرَةَ عَنْهُ، فَقَالَ لَنَا عَبْدُ اللهِ بْنُ إِبْرَاهِيمَ: أَشْهَدُ أَنِّي سَمِعْتُ أَبَا هُرَيْرَةَ يَقُولُ: قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «فَإِنِّي آخِرُ الأَنْبِيَاءِ، وَإِنَّ مَسْجِدِي آخِرُ الْـمَسَاجِدِ» .

[2971–508]. (Dar al-Salam 3212) Muhammad ibn al-Muthannā and Ibn Abi ʿUmar narrated: both from al-Thaqafī. Ibn al-Muthannā said: ʿAbd al-Wahhāb narrated; he said: I heard Yaḥyā ibn Saʿīd say: **‘I asked Abu Ṣāliḥ: “Did you hear Abu Hurayrah**

mentioning the merit of prayer in God’s Messenger’s Mosque?” He said: “No, but ʿAbdullāh ibn Ibrāhīm ibn Qāriẓ told me that he heard Abu Hurayrah narrating that God’s Messenger (peace be upon him) said: ‘One prayer in this, my mosque, is better than (or like) one thousand prayers in other mosques, except for a prayer in the Inviolable Mosque’.”’

حَدَّثَنَا مُحَمَّدُ بْنُ الْـمُثَنَّى، وَابْنُ أَبِي عُمَرَ، جَمِيعًا عَنِ الثَّقَفِيِّ. قَالَ ابْنُ الْـمُثَنَّى حَدَّثَنَا عَبْدُ الْوَهَّابِ قَالَ: سَمِعْتُ يَحْيَى بْنَ سَعِيدٍ، يَقُولُ سَأَلْتُ أَبَا صَالِحٍ: هَلْ سَمِعْتَ أَبَا هُرَيْرَةَ يَذْكُرُ فَضْلَ الصَّلاَةِ فِي مَسْجِدِ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ؟ فَقَالَ لا، وَلَكِنْ أَخْبَرَنِي عَبْدُ اللهِ بْنُ إِبْرَاهِيمَ بْنِ قَارِظٍ أَنَّهُ سَمِعَ أَبَا هُرَيْرَةَ يُحَدِّثُ أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: «صَلاَةٌ فِي مَسْجِدِي هَذَا خَيْرٌ مِنْ أَلْفِ صَلاَةٍ - أَوْ كَأَلْفِ صَلاَةٍ - فِيمَا سِوَاهُ مِنَ الْـمَسَاجِدِ، إِلاَّ أَنْ يَكُونَ الْـمَسْجِدَ الْحَرَامَ».

This hadith was also narrated to me by Zuhayr ibn Ḥarb, ʿUbaydullāh ibn Saʿīd and Muhammad ibn Ḥātim: they said: Yaḥyā al-Qaṭṭān narrated; from Yaḥyā ibn Saʿīd; with the same chain of transmission.

وَحَدَّثَنِيهِ زُهَيْرُ بْنُ حَرْبٍ، وَعُبَيْدُ اللهِ بْنُ سَعِيدٍ، وَمُحَمَّدُ بْنُ حَاتِمٍ قَالُوا: حَدَّثَنَا يَحْيَى الْقَطَّانُ، عَنْ يَحْيَى بْنِ سَعِيدٍ، بِهَذَا الإِسْنَادِ.

[2972–509]. (Dar al-Salam [3213–3216]) Zuhayr ibn Ḥarb and Muhammad ibn al-Muthannā narrated to me: both said: Yaḥyā

(who is al-Qaṭṭān narrated; from ʿUbaydullāh; he said: Nāfiʿ reported to me; from Ibn ʿUmar; from the Prophet (peace be upon him). He said: **‘One prayer in this, my mosque, is better than one thousand prayers elsewhere, except for the Inviolable Mosque’.**

وَحَدَّثَنِي زُهَيْرُ بْنُ حَرْبٍ، وَمُحَمَّدُ بْنُ الْـمُثَنَّى، قَالا: حَدَّثَنَا يَحْيَى (وَهُوَ الْقَطَّانُ)، عَنْ عُبَيْدِ اللهِ قَالَ: أَخْبَرَنِي نَافِعٌ، عَنِ ابْنِ عُمَرَ، عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: «صَلاَةٌ فِي مَسْجِدِي هَذَا أَفْضَلُ مِنْ أَلْفِ صَلاَةٍ فِيمَا سِوَاهُ، إِلاَّ الْـمَسْجِدَ الْحَرَامَ» .

Abu Bakr ibn Abi Shaybah narrated: Ibn Numayr and Abu Usāmah narrated [H]. Also, Ibn Numayr narrated; my father narrated [H]. And Muhammad ibn al-Muthannā narrated; ʿAbd al-Wahhāb narrated; all from ʿUbaydullāh; with the same chain of transmission: **the same text.**

وَحَدَّثَنَاهُ أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا ابْنُ نُمَيْرٍ، وَأَبُو أُسَامَةَ ح. وَحَدَّثَنَاهُ ابْنُ، نُمَيْرٍ، حَدَّثَنَا أَبِي ح. وَحَدَّثَنَاهُ مُحَمَّدُ بْنُ الْـمُثَنَّى، حَدَّثَنَا عَبْدُ الْوَهَّابِ، كُلُّهُمْ عَنْ عُبَيْدِ اللهِ، بِهَذَا الإِسْنَادِ.

Ibrāhīm ibn Mūsā narrated:[iii] Ibn Abi Zā’idah reported; from Mūsā al-Juhanī; from Nāfiʿ; from Ibn ʿUmar. He said: **‘I heard God’s Messenger (peace be upon him) say…’ the same text.**

وَحَدَّثَنِي إِبْرَاهِيمُ بْنُ مُوسَى، أَخْبَرَنَا ابْنُ أَبِي زَائِدَةَ، عَنْ مُوسَى الْجُهَنِيِّ، عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ قَالَ: سَمِعْتُ رَسُولَ اللهِ صَلَّى اللهُ

عَلَيْهِ وَسَلَّمَ يَقُولُ: بِمِثْلِهِ.

Ibn Abi ʿUmar narrated: ʿAbd al-Razzāq narrated; Maʿmar reported; from Ayyūb; from Nāfiʿ; from Ibn ʿUmar; from the Prophet (peace be upon him): **the same text.**

وَحَدَّثَنَاهُ ابْنُ أَبِي عُمَرَ، حَدَّثَنَا عَبْدُ الرَّزَّاقِ، أَخْبَرَنَا مَعْمَرٌ، عَنْ أَيُّوبَ، عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ، عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ. بِمِثْلِهِ.

[2973–510]. (Dar al-Salam 3217) Qutaybah ibn Saʿīd and Muhammad ibn Rumḥ narrated:[iv] both from al-Layth ibn Saʿd; Qutaybah said: Layth narrated; from Nāfiʿ; from Ibrāhīm ibn ʿAbdullāh ibn Maʿbad; from Ibn ʿAbbās. He said: **‘A woman had a complaint. She said: “If God cures me, I shall travel and pray in Bayt al-Maqdis” (i.e., Jerusalem). She was cured. She prepared herself for travel. Maymūnah, the Prophet’s wife, went to see her and bid her farewell. She [the woman] told her: “[Maymūnah] said: ‘Stay here and eat what you have prepared [for your journey] and pray in the Prophet’s Mosque. I heard God’s Messenger say: “A prayer in it is better than one thousand prayers in all other mosques, except the Kaʿbah mosque”.’”’**

وَحَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ، وَمُحَمَّدُ بْنُ رُمْحٍ، جَمِيعًا عَنِ اللَّيْثِ بْنِ سَعْدٍ. قَالَ قُتَيْبَةُ: حَدَّثَنَا لَيْثٌ، عَنْ نَافِعٍ، عَنْ إِبْرَاهِيمَ بْنِ عَبْدِ اللهِ بْنِ مَعْبَدٍ، عَنِ ابْنِ عَبَّاسٍ أَنَّهُ قَالَ: إِنَّ امْرَأَةً اشْتَكَتْ شَكْوَى فَقَالَتْ: إِنْ شَفَانِي اللهُ لأَخْرُجَنَّ فَلأُصَلِّيَنَّ فِي بَيْتِ الْـمَقْدِسِ . فَبَرَأَتْ، ثُمَّ تَجَهَّزَتْ تُرِيدُ

الْخُرُوجَ. فَجَاءَتْ مَيْمُونَةَ، زَوْجَ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، تُسَلِّمُ عَلَيْهَا، فَأَخْبَرَتْهَا ذَلِكَ، فَقَالَتِ: اجْلِسِي، فَكُلِي مَا صَنَعْتِ، وَصَلِّي فِي مَسْجِدِ الرَّسُولِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ. فَإِنِّي سَمِعْتُ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ يَقُولُ: «صَلاَةٌ فِيهِ أَفْضَلُ مِنْ أَلْفِ صَلاَةٍ فِيمَا سِوَاهُ مِنَ الْـمَسَاجِدِ، إِلاَّ مَسْجِدَ الْكَعْبَةِ» .

Text Explanation

In these hadiths the Prophet says: ‘One prayer in this, my mosque, is better than one thousand prayers elsewhere, except for the Inviolable Mosque’. Scholars differ as to what is meant by the exception and their disagreement is in line with their disagreement on which of the two cities is better: Makkah or Madinah. The view of al-Shāfiʿī and the great majority of scholars is that Makkah is better than Madinah and the mosque in Makkah is better than the one in Madinah. Mālik and a group of scholars say the opposite. Al-Shāfiʿī and the majority of scholars say that the hadith means that a prayer in the Prophet’s Mosque is better than prayer elsewhere, with the exception of the Inviolable Mosque where a prayer is better than its equivalent in my mosque’. Mālik and the scholars who share his view understand the hadith as meaning: ‘except the Inviolable Mosque; for a prayer in my mosque is better than its equivalent in the Inviolable Mosque by less than one thousand’. *Qadi* ʿIyāḍ said: ‘They unanimously agree that the place where the Prophet is buried is the best spot on earth, and that Makkah and Madinah are the best places on earth except for the Prophet’s place of burial. ʿUmar, some of the Prophet’s Companions, Mālik and the majority of Madinah scholars say that Madinah is superior. The scholars of Makkah and Kufah, al-Shāfiʿī and the two Mālikī scholars Ibn Wahb and Ibn Ḥabīb maintain that Makkah is superior.

Our scholars’ argument in support of their view that Makkah is better includes the hadith narrated by ʿAbdullāh ibn ʿAdiy ibn al-Ḥamrā,’ who confirms that he heard the Prophet say as he was on his she-camel in Makkah: ‘By God, you are the best of God’s earth, and the dearest land on earth to God. Had it not been that I was forcibly made to leave you, I would not have left you’. This hadith is related by al-Tirmidhī and al-Nasā’ī. Al-Tirmidhī said that it is of the grade of ‘good and authentic’. Moreover, ʿAbdullāh ibn al-Zubayr said: ‘God’s Messenger (peace be upon him) said: “One prayer in this my mosque is better than one thousand prayers in other

mosques, except for the Inviolable Mosque. And a prayer in the Inviolable Mosque is better than one hundred prayers in my mosque”.’ This hadith is of the ‘good’ grade, and it is related by Ahmad ibn Ḥanbal in his anthology, *al-Musnad*, and al-Bayhaqī and others with a chain of transmission attaining the grade ‘good’, but God knows best.

Our school considers that this preferability is not limited to offering the obligatory prayers in these two mosques. It applies to both obligatory and recommended prayers. This is also stated by Muṭarrif, a Mālikī scholar. On the other hand, al-Ṭaḥāwī said that it is limited to obligatory prayers. This is contrary to the fact that these authentic hadiths are of general import, but God knows best.

It should be clear that prayer in the Madinah Mosque is better than one thousand prayers elsewhere, other than the Inviolable Mosque, i.e., the Ḥaram or Grand Mosque in Makkah. Such a prayer is better than one thousand others, as these hadiths make clear. Scholars say that this refers to the reward God grants for such prayer. The reward God grants for a prayer in this mosque is more than a thousand times the reward He grants for a prayer elsewhere. This is not extended to compensatory prayers. If a person has missed two obligatory prayers and he offers one prayer in the Prophet’s Mosque, it will not redeem both missed prayers. There is no disagreement among scholars on this point, but God knows best.

It should be clear that this preference applies to the Prophet’s Mosque itself, i.e., the mosque as it was in his own time, not to the extensions added later.[v] Therefore, worshippers should be keen to pray there. I highlighted this in my book on the hajj and its duties, but God knows best.

Maymūnah, the Prophet’s wife, gives a woman who pledged to pray in Jerusalem a fatwa that she may redeem her pledge by praying in the Prophet’s Mosque. She cites the hadith as her evidence. This supports the most correct view on this question: If a person pledges to pray in the mosque in Madinah or in al-Aqsa Mosque in Jerusalem, does it have to be there? There are two views, and the more correct one is that it does. To pray

anywhere else is not enough to fulfil a pledge. The other view says that it does not have to be there. Wherever one prays fulfils one's pledge.

Let us take the first view that the prayer must be offered there. Suppose that a person pledges to pray in one of these two mosques, the Prophet's and al-Aqsa, then he proposes to pray in the other mosque, is this acceptable? Here we have three views: (1) it is acceptable; (2) it is not acceptable, and (3) (which is the most correct) if the pledge were to pray in al-Aqsa Mosque, he may offer it in the Prophet's Mosque in Madinah, but not the reverse, and God knows best.

Transmission

The chain of transmission of hadith No. 2973 includes ‘Layth narrated; from Nāfiʿ; from Ibrāhīm ibn ʿAbdullāh ibn Maʿbad; from Ibn ʿAbbās’, and then it mentions Maymūnah’s report. This is one of the hadiths in Muslim’s *Ṣaḥīḥ* that have been questioned because of a problem in the transmission chain. Hadith masters say that the mention of Ibn ʿAbbās as its narrator is an error. The correct chain is ‘from Ibrāhīm ibn ʿAbdullāh from Maymūnah’. This is what is learnt from the narration of both al-Layth and Ibn Jurayj from Nāfiʿ, from Ibrāhīm ibn ʿAbdullāh, from Maymūnah, without any mention of Ibn ʿAbbās. Likewise, al-Bukhari relates the hadith in his *Ṣaḥīḥ*: ‘from al-Layth, from Nāfiʿ, from Ibrāhīm, from Maymūnah’, without mentioning Ibn ʿAbbās. In his book *al-ʿIlal*, al-Dāraquṭnī says: ‘Some narrate the hadith from Ibn ʿAbbās, from Maymūnah’, but this is invalid.

In his work *al-Tārīkh al-Kabīr*, al-Bukhari says: ‘Ibrāhīm ibn ʿAbdullāh ibn Maʿbad ibn al-ʿAbbās ibn ʿAbd al-Muṭṭalib, from his father and Maymūnah’, adding this hadith through al-Layth and Ibn Jurayj, without any mention of Ibn ʿAbbās.[vi] He then adds: ‘Al-Makkī told us that Ibn Jurayj heard Nāfiʿ say that Ibrāhīm ibn Maʿbad narrated that Ibn ʿAbbās narrated to him from Maymūnah.’ Al-Bukhari comments: ‘Mentioning Ibn ʿAbbās here is incorrect’.

Qadi ʿIyāḍ said that some scholars suggest that the correct way is ‘that Ibrāhīm ibn ʿAbdullāh ibn Maʿbad ibn ʿAbbās said: A woman complained of an illness…’. He adds that Muslim mentions earlier in this chapter the hadith narrated by ʿAbdullāh, from Nāfiʿ, from Ibn ʿUmar. He also mentions the narration of Mūsā al-Juhanī, from Nāfiʿ, from Ibn ʿUmar and the narration of Ayyūb, from Nāfiʿ, from Ibn ʿUmar. This is also questioned by al-Dāraquṭnī who says that this hadith is not known to be of Ayyūb’s narration. He goes on to say that Nāfiʿ’s narration is, therefore, defective. He adds: al-Layth and Ibn Jurayj report it differently, from Ibrāhīm ibn

ʿAbdullāh ibn Maʿbad, from Maymūnah. Muslim mentions both versions, but al-Bukhari does not mention Nāfiʿ's narration in his *Ṣaḥīḥ* at all. Yet, in his *Tārīkh*, al-Bukhari mentions the narration of ʿAbdullāh and Mūsā from Nāfiʿ. He adds that the first one is more authentic. He means the narration by Ibrāhīm ibn ʿAbdullāh, from Maymūnah. Thus, he agrees with al-Dāraquṭnī, but God knows best.

My view is that both versions may be authentic, as Muslim has considered. The disagreement we have mentioned does not preclude this. Nevertheless, there is no disagreement on the fact that the text of the hadith is authentic, but God knows best.

i. Related by Ibn Mājah, 1404.
ii. Related by al-Bukhari, 1190; al-Tirmidhī, 325; al-Nasā'ī, 2899 and in a longer version, 693.
iii. Related by al-Nasā'ī, 2897 and 2898.
iv. Related by al-Nasā'ī in shorter versions, 690 and 2898.
v. Al-Nawawī's view on this point is valid, but not practical in our own time when worshippers in high season amount to several hundred thousand. God's bounty is limitless, and His reward is countless.
vi. Confusion arises from the fact that Ibrāhīm is a descendent of al-ʿAbbās ibn ʿAbd al-Muṭṭalib, while mention of 'Ibn ʿAbbās' refers to al-ʿAbbās' own son, ʿAbdullāh.

CHAPTER 95

THE THREE PREFERRED MOSQUES

[2974–511]. (Dar al-Salam 3218) ʿAmr al-Nāqid and Zuhayr ibn Ḥarb narrated to me:[i] both from Ibn ʿUyaynah; ʿAmr said: Syfyān narrated; from al-Zuhrī; from Saʿīd; from Abu Hurayrah; quoting the Prophet (peace be upon him): **‘Travel may not be undertaken except to three mosques: this mosque of mine, the Inviolable Mosque and al-Aqṣā Mosque’.**

حَدَّثَنِي عَمْرٌو النَّاقِدُ، وَزُهَيْرُ بْنُ حَرْبٍ، جَمِيعًا عَنِ ابْنِ عُيَيْنَةَ. قَالَ عَمْرٌو: حَدَّثَنَا سُفْيَانُ، عَنِ الزُّهْرِيِّ، عَنْ سَعِيدٍ، عَنْ أَبِي هُرَيْرَةَ، يَبْلُغُ بِهِ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «لا تُشَدُّ الرِّحَالُ إِلاَّ إِلَى ثَلاَثَةِ مَسَاجِدَ: مَسْجِدِي هَذَا وَمَسْجِدِ الْحَرَامِ وَمَسْجِدِ الأَقْصَى» .

[2975–512]. (Dar al-Salam 3219) Abu Bakr ibn Abi Shaybah narrated:[ii] ʿAbd al-Aʿlā narrated; from Maʿmar; from al-Zuhrī; with this same chain of transmission: **the same text, except that he said: ‘Travel may be undertaken to three mosques’.**

وَحَدَّثَنَاهُ أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا عَبْدُ الأَعْلَى، عَنْ مَعْمَرٍ، عَنِ الزُّهْرِيِّ، بِهَذَا الإِسْنَادِ، غَيْرَ أَنَّهُ قَالَ: «تُشَدُّ الرِّحَالُ إِلَى ثَلاَثَةِ مَسَاجِدَ» .

[2976–513]. (Dar al-Salam 3220) Ḥārūn ibn Saʿīd al-Aylī narrated: Ibn Wahb narrated; ʿAbd al-Ḥamīd ibn Jaʿfar narrated to me; that ʿImrān ibn Abi Anas narrated to him; that Salmān al-Agharr narrated to him; that he heard Abu Hurayrah saying; that God's Messenger (peace be upon him) said: **'Travel is undertaken only to three mosques: the mosque at the Kaʿbah, my mosque and the mosque at Jerusalem'.**

وَحَدَّثَنَا هَارُونُ بْنُ سَعِيدٍ الأَيْلِيُّ، حَدَّثَنَا ابْنُ وَهْبٍ، حَدَّثَنِي عَبْدُ الْحَمِيدِ بْنُ جَعْفَرٍ، أَنَّ عِمْرَانَ بْنَ أَبِي أَنَسٍ، حَدَّثَهُ أَنَّ سَلْـمَانَ الأَغَرَّ حَدَّثَهُ، أَنَّهُ سَمِعَ أَبَا هُرَيْرَةَ يُخْبِرُ أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: «إِنَّمَا يُسَافَرُ إِلَى ثَلاَثَةِ مَسَاجِدَ مَسْجِدِ الْكَعْبَةِ وَمَسْجِدِي وَمَسْجِدِ إِيلِيَاءَ» .

Text Explanation

The Aqsa Mosque is called by this name because it is far from the mosque in Makkah. Al-Aqsa means ‘faraway’.

These hadiths highlight the importance of these three mosques and the commendable action of undertaking a journey to visit any of them. Scholars say that the hadiths mean that there is no merit or advantage in travelling to visit any particular mosque other than these three. Shaykh Abu Muhammad al-Juwaynī, of our Shāfiʿī School, said that it is forbidden to undertake a journey to any other mosque, but this is wrong.

We have already spoken about the meaning of these hadiths in Chapter 74, discussing a woman’s travel to perform pilgrimage and other journeys and the need to have the company of a close relative, i.e., a *maḥram*.

i. Related by al-Bukhari, 1189; Abu Dāwūd, 2033; al-Nasā’ī, 699.

ii. Related by Ibn Mājah, 1409.

CHAPTER 96

THE MOSQUE FOUNDED ON PIETY

[2977–514]. (Dar al-Salam 3221-3222) Muhammad ibn Ḥātim narrated to me: Yaḥyā ibn Saʿīd narrated; from Ḥumayd al-Kharrāṭ. He said: **‘I heard Abu Salamah ibn ʿAbd al-Raḥmān say: “ʿAbd al-Raḥmān ibn Abu Saʿīd al-Khudrī passed by me, and I said to him: ‘What did you hear your father say about the mosque which was founded on piety?’ He said: ‘My father said: “I visited God’s Messenger (peace be upon him) in the home of one of his wives and I asked: ‘Messenger of God, which of the two mosques is the one founded on piety?’ He took a handful of gravel and threw it on the ground, then said: ‘It is this mosque of yours’ (meaning the Madinah Mosque).”’ I said: ‘I bear witness that I heard your father mentioning it in this way’.”’**

حَدَّثَنِي مُحَمَّدُ بْنُ حَاتِمٍ، حَدَّثَنَا يَحْيَى بْنُ سَعِيدٍ، عَنْ حُمَيْدٍ الْخَرَّاطِ قَالَ: سَمِعْتُ أَبَا سَلَمَةَ بْنَ عَبْدِ الرَّحْمَنِ قَالَ: مَرَّ بِي عَبْدُ الرَّحْمَنِ بْنُ أَبِي سَعِيدٍ الْخُدْرِيِّ. قَالَ قُلْتُ لَهُ: كَيْفَ سَمِعْتَ أَبَاكَ يَذْكُرُ فِي الْـمَسْجِدِ الَّذِي أُسِّسَ عَلَى التَّقْوَى؟ قَالَ قَالَ أَبِي: دَخَلْتُ عَلَى رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فِي بَيْتِ بَعْضِ نِسَائِهِ فَقُلْتُ: يَا رَسُولَ اللهِ، أَيُّ الْـمَسْجِدَيْنِ الَّذِي أُسِّسَ عَلَى التَّقْوَى؟ قَالَ فَأَخَذَ كَفًّا مِنْ حَصْبَاءَ

فَضَرَبَ بِهِ الأَرْضَ، ثُمَّ قَالَ: «هُوَ مَسْجِدُكُمْ هَذَا» ، لِـمَسْجِدِ الْـمَدِينَةِ. قَالَ: فَقُلْتُ أَشْهَدُ أَنِّي سَمِعْتُ أَبَاكَ هَكَذَا يَذْكُرُهُ.

Abu Bakr ibn Abi Shaybah and Saʿīd ibn ʿAmr al-Ashʿathī narrated: Ḥātim ibn Ismāʿīl (Saʿīd said: ‘reported’ and Abu Bakr said: ‘narrated’); from Ḥumayd; from Abu Salamah; from Abu Saʿīd; from the Prophet (peace be upon him): **the same text. He did not mention ʿAbd al-Raḥmān ibn Abi Saʿīd in this chain of transmission.**

وَحَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، وَسَعِيدُ بْنُ عَمْرٍو الأَشْعَثِيُّ، (قَالَ سَعِيدٌ أَخْبَرَنَا وَقَالَ أَبُو بَكْرٍ حَدَّثَنَا) حَاتِمُ بْنُ إِسْمَاعِيلَ، عَنْ حُمَيْدٍ، عَنْ أَبِي سَلَمَةَ، عَنْ أَبِي سَعِيدٍ، عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ بِمِثْلِهِ. وَلَمْ يَذْكُرْ عَبْدَ الرَّحْمَنِ بْنَ أَبِي سَعِيدٍ فِي الإِسْنَادِ

Text Explanation

This hadith refers to the mosque mentioned in the Qur'an: 'Only a house of worship that from the very first day has been founded on piety is worthy of you standing to pray there. In it are men who love to grow in purity, for God loves those who purify themselves'. (9: 108) This hadith makes it clear that it is definitely the Prophet's Mosque in Madinah. It refutes what some commentators say about it being the Qubā' mosque. That the Prophet took a handful of gravel and threw it on the ground was a gesture to emphasize what he said in answer.

CHAPTER 97

THE QUBĀ' MOSQUE AND PRAYER THERE

[2978–515]. (Dar al-Salam 3223) Abu Jaʿfar Ahmad ibn Manīʿ narrated:[i] Ismāʿīl ibn Ibrāhīm narrated; Ayyūb narrated; from Nāfiʿ; from Ibn ʿUmar that **'God's Messenger used to visit Qubā' and went there riding or walking'.**

حَدَّثَنَا أَبُو جَعْفَرٍ أَحْمَدُ بْنُ مَنِيعٍ، حَدَّثَنَا إِسْمَاعِيلُ بْنُ إِبْرَاهِيمَ، حَدَّثَنَا أَيُّوبُ، عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ، أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ كَانَ يَزُورُ قُبَاءً رَاكِبًا وَمَاشِيًا.

[2979–516]. (Dar al-Salam 3224) Abu Bakr ibn Abi Shaybah narrated:[ii] ʿAbdullāh ibn Numayr and Abu Usāmah narrated; from ʿUbaydullāh [H]. Also, Muhammad ibn ʿAbdullāh ibn Numayr narrated; my father narrated; ʿUbaydullāh narrated; from Nāfiʿ; from Ibn ʿUmar. He said: **'God's Messenger (peace be upon him) used to go to the Qubā' Mosque, either riding or walking, and pray two *rakʿahs* there'.**

Abu Bakr said in his narration: **'Ibn Numayr said: "he prays two *rakʿahs* there".'**

وَحَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا عَبْدُ اللهِ بْنُ نُمَيْرٍ، وَأَبُو أَسَامَةَ عَنْ عُبَيْدِ اللهِ ح. وَحَدَّثَنَا مُحَمَّدُ بْنُ عَبْدِ اللهِ بْنِ نُمَيْرٍ، حَدَّثَنَا أَبِي، حَدَّثَنَا عُبَيْدُ اللهِ، عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ قَالَ: كَانَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ يَأْتِي مَسْجِدَ قُبَاءٍ رَاكِبًا وَمَاشِيًا، فَيُصَلِّي فِيهِ رَكْعَتَيْنِ . قَالَ أَبُو بَكْرٍ فِي رِوَايَتِهِ: قَالَ ابْنُ نُمَيْرٍ فَيُصَلِّي فِيهِ رَكْعَتَيْنِ.

[2980–517]. (Dar al-Salam 3225-3226) Muhammad ibn al-Muthannā narrated: Yaḥyā narrated; ʿUbaydullāh narrated; Nāfiʿ reported to me; from Ibn ʿUmar; that **‘God’s Messenger (peace be upon him) used to go to Qubā’ riding or walking’.**

وَحَدَّثَنَا مُحَمَّدُ بْنُ الْـمُثَنَّى، حَدَّثَنَا يَحْيَى، حَدَّثَنَا عُبَيْدُ اللهِ، أَخْبَرَنِي نَافِعٌ، عَنِ ابْنِ عُمَرَ أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ كَانَ يَأْتِي قُبَاءً رَاكِبًا وَمَاشِيًا.

Abu Maʿn al-Riqāshī Zayd ibn Yazīd al-Thaqafī (reliable narrator from Basrah) narrated to me: Khālid (meaning ibn al-Ḥārith) narrated; from Ibn ʿAjlān; from Nāfiʿ; from Ibn ʿUmar; from the Prophet (peace be upon him): **the same text as narrated by Yaḥyā al-Qaṭṭān.**

وَحَدَّثَنِي أَبُو مَعْنٍ الرَّقَاشِيُّ زَيْدُ بْنُ يَزِيدَ الثَّقَفِيُّ - بَصْرِيٌّ ثِقَةٌ - حَدَّثَنَا خَالِدٌ (يَعْنِي ابْنَ الْحَارِثِ) عَنِ ابْنِ عَجْلاَنَ، عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ، عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، بِمِثْلِ حَدِيثِ يَحْيَى الْقَطَّانِ.

[2981–518]. (Dar al-Salam 3227) Yaḥyā ibn Yaḥyā narrated:[iii] he said: I read out to Mālik; from ʿAbdullāh ibn Dīnār; from ʿAbdullāh ibn ʿUmar that **‘God’s Messenger (peace be upon him) used to go to Qubā’, either riding or on foot’.**

وَحَدَّثَنَا يَحْيَى بْنُ يَحْيَى، قَالَ قَرَأْتُ عَلَى مَالِكٍ، عَنْ عَبْدِ اللهِ بْنِ دِينَارٍ، عَنْ عَبْدِ اللهِ بْنِ عُمَرَ أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ كَانَ يَأْتِي قُبَاءً رَاكِبًا وَمَاشِيًا.

[2982–519]. (Dar al-Salam 3228) Yaḥyā ibn Ayyūb, Qutaybah and Ibn Ḥujr narrated: Ibn Ayyūb said: Ismāʿīl ibn Jaʿfar narrated; ʿAbdullāh ibn Dīnār reported to me; that he heard ʿAbdullāh ibn ʿUmar say: **‘God’s Messenger (peace be upon him) used to go to Qubā’ riding and on foot’.**

وَحَدَّثَنَا يَحْيَى بْنُ أَيُّوبَ، وَقُتَيْبَةُ، وَابْنُ حُجْرٍ. قَالَ ابْنُ أَيُّوبَ: حَدَّثَنَا إِسْمَاعِيلُ بْنُ جَعْفَرٍ، أَخْبَرَنِي عَبْدُ اللهِ بْنُ دِينَارٍ، أَنَّهُ سَمِعَ عَبْدَ اللهِ بْنَ عُمَرَ يَقُولُ: كَانَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ يَأْتِي قُبَاءً رَاكِبًا وَمَاشِيًا.

[2983–520]. (Dar al-Salam 3229) Zuhayr ibn Ḥarb narrated to me: Sufyān ibn ʿUyaynah narrated; from ʿAbdullāh ibn Dīnār; that Ibn ʿUmar used to go to Qubā’ every Saturday. He used to say: **‘I saw the Prophet (peace be upon him) visiting it every Saturday’.**

وَحَدَّثَنِي زُهَيْرُ بْنُ حَرْبٍ، حَدَّثَنَا سُفْيَانُ بْنُ عُيَيْنَةَ، عَنْ عَبْدِ اللهِ بْنِ دِينَارٍ، أَنَّ ابْنَ عُمَرَ كَانَ يَأْتِي قُبَاءً كُلَّ سَبْتٍ. وَكَانَ يَقُولُ رَأَيْتُ النَّبِيَّ صَلَّى

اللهُ عَلَيْهِ وَسَلَّمَ يَأْتِيهِ كُلَّ سَبْتٍ.

[2984–521]. (Dar al-Salam 3230) Ibn Abi ʿUmar narrated: Sufyān narrated; from ʿAbdullāh ibn Dīnār; from ʿAbdullāh ibn ʿUmar that **‘God’s Messenger (peace be upon him) used to go to Qubā’, meaning every Saturday. He used to go riding or walking’.**

Ibn Dīnār said: **‘Ibn ʿUmar used to do the same’.**

وَحَدَّثَنَاهُ ابْنُ أَبِي عُمَرَ، حَدَّثَنَا سُفْيَانُ، عَنْ عَبْدِ اللهِ بْنِ دِينَارٍ، عَنْ عَبْدِ اللهِ بْنِ عُمَرَ أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ كَانَ يَأْتِي قُبَاءً، يَعْنِي كُلَّ سَبْتٍ. كَانَ يَأْتِيهِ رَاكِبًا وَمَاشِيًا . قَالَ ابْنُ دِينَارٍ وَكَانَ ابْنُ عُمَرَ يَفْعَلُهُ.

[2985–522]. ʿAbdullāh ibn Hāshim narrated it to me:[iv] Wakīʿ narrated; from Sufyān; from Ibn Dīnār; with the same chain of transmission: **the same text but did not mention ‘every Saturday’.**

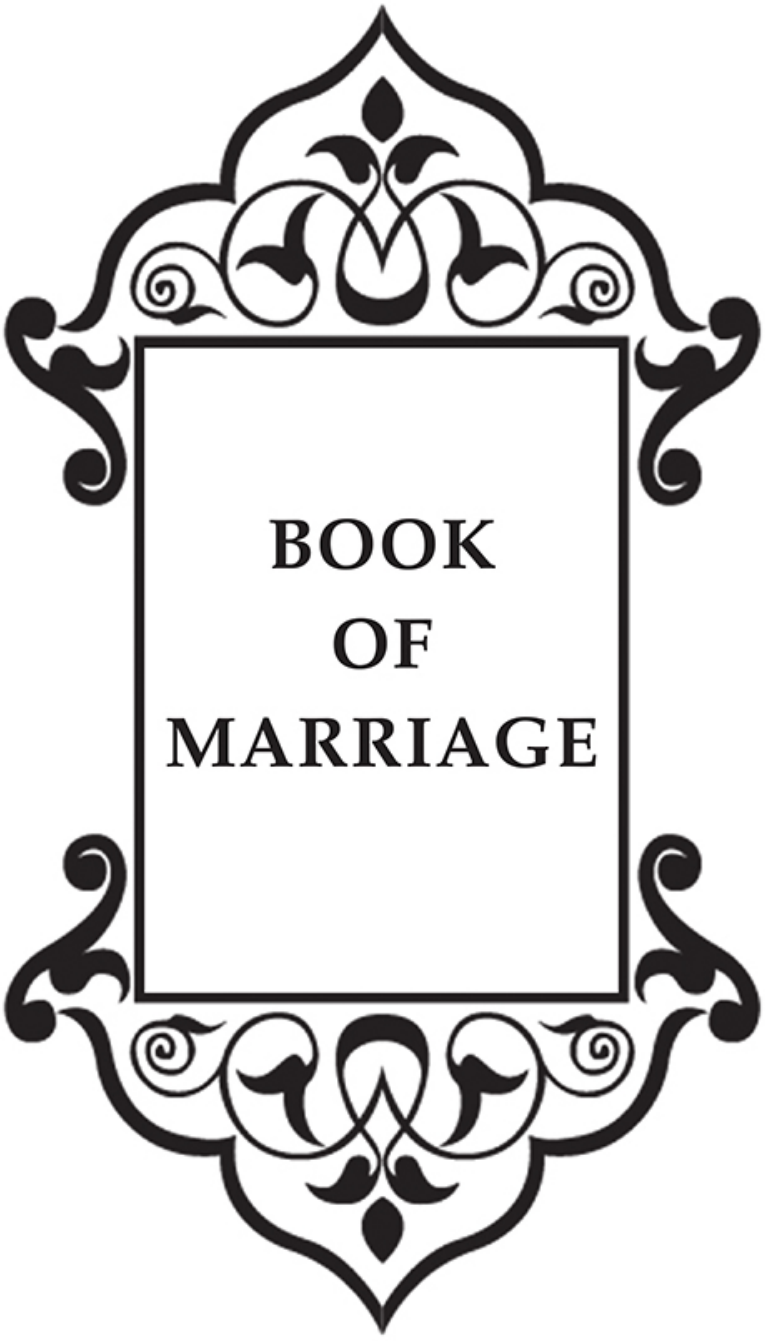
وَحَدَّثَنِيهِ عَبْدُ اللهِ بْنُ هَاشِمٍ، حَدَّثَنَا وَكِيعٌ، عَنْ سُفْيَانَ، عَنِ ابْنِ دِينَارٍ، بِهَذَا الإِسْنَادِ . وَلَمْ يَذْكُرْ كُلَّ سَبْتٍ.

Text Explanation

Qubā' was very close to Madinah, but now it forms part of it. These hadiths highlight the merit of this area and the mosque that was built there as also prayer therein. They also stress that it is perfectly permissible to go there using a means of transport or on foot. This applies to all such places. The hadiths also make it clear that any voluntary prayer offered during the day should be two *rakʿahs* at a time, in the same way as night worship. This is the view of our Shāfiʿī School and the majority of scholars, but Abu Ḥanīfah differs on this point. We discussed this in the Book of Prayer.

The hadiths mention that the Prophet used to visit Qubā' 'every Saturday'. This shows that it is permissible to make such visits on particular days. This is right and confirmed by the majority of scholars. Ibn Maslamah al-Mālikī, however, expressed discouragement. Scholars said that he might not have been aware of these hadiths, but God knows best. To God belongs all praise for His favours. To Him we appeal for guidance and protection from error.

i. Related by al-Bukhari in a longer version, 1191.
ii. Related by al-Bukhari with the second chain of transmission only, 1194; Abu Dāwūd, 2040.
iii. Related by al-Nasā'ī, 697.
iv. Related by al-Bukhari, 7326. In Dar al-Salam's edition, this hadith is attached to the one before it.


BOOK
OF
MARRIAGE

CHAPTER 1

THE DESIRABILITY OF MARRIAGE

[2986–1]. (Dar al-Salam 3231) Yaḥyā ibn Yaḥyā al-Tamīmī, Abu Bakr ibn Abi Shaybah and Muhammad ibn al-ʿAlā’ al-Hamdānī narrated: all from Abu Muʿāwiyah (Yaḥyā’s text); Abu Muʿāwiyah reported; from al-Aʿmash; from Ibrāhīm; from ʿAlqamah. He said: **‘I was walking with ʿAbdullāh at Mina when ʿUthmān met him. They were in conversation and ʿUthmān said to him: “Abu ʿAbd al-Raḥmān, shall we find you a young woman to marry. Maybe she will remind you of some of your past days”. ʿAbdullāh said: “As you are saying this, God’s Messenger (peace be upon him) said to us: ‘Young people, whoever of you can meet marriage requirements, should get married. For marriage helps to lower one’s gaze and maintain chastity. Whoever cannot, may resort to fasting, and it will be of help’.”’**

حَدَّثَنَا يَحْيَى بْنُ يَحْيَى التَّمِيمِيُّ، وَأَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، وَمُحَمَّدُ بْنُ الْعَلاَءِ الْهَمْدَانِيُّ، جَمِيعًا عَنْ أَبِي مُعَاوِيَةَ (وَاللَّفْظُ لِيَحْيَى) أَخْبَرَنَا أَبُو مُعَاوِيَةَ، عَنِ الأَعْمَشِ، عَنْ إِبْرَاهِيمَ، عَنْ عَلْقَمَةَ قَالَ: كُنْتُ أَمْشِي مَعَ عَبْدِ اللهِ بِمِنًى، فَلَقِيَهُ عُثْمَانُ، فَقَامَ مَعَهُ يُحَدِّثُهُ، فَقَالَ لَهُ عُثْمَانُ: يَا أَبَا عَبْدِ الرَّحْمَنِ، أَلاَ نُزَوِّجُكَ جَارِيَةً شَابَّةً، لَعَلَّهَا تُذَكِّرُكَ بَعْضَ مَا مَضَى مِنْ زَمَانِكَ؟ قَالَ فَقَالَ عَبْدُ اللهِ: لَئِنْ قُلْتَ ذَاكَ لَقَدْ قَالَ لَنَا رَسُولُ اللهِ

صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «يَا مَعْشَرَ الشَّبَابِ، مَنِ اسْتَطَاعَ مِنْكُمُ الْبَاءَةَ فَلْيَتَزَوَّجْ، فَإِنَّهُ أَغَضُّ لِلْبَصَرِ، وَأَحْصَنُ لِلْفَرْجِ. وَمَنْ لَمْ يَسْتَطِعْ فَعَلَيْهِ بِالصَّوْمِ فَإِنَّهُ لَهُ وِجَاءٌ» .

[2987–2]. (Dar al-Salam 3232) ʿUthmān ibn Abi Shaybah narrated: Jarīr narrated; from al-Aʿmash; from Ibrāhīm; from ʿAlqamah. He said: **‘I was walking with ʿAbdullāh ibn Masʿūd at Mina when ʿUthmān ibn ʿAffān met him. He said: “Abu ʿAbd al-Raḥmān, come over”. He wanted to speak to him alone. When ʿAbdullāh realized that he did not have any private business, he said to me: “Come over, ʿAlqamah”. I went to them. ʿUthmān said to him: “Abu ʿAbd al-Raḥmān, shall we find you a virgin woman to marry. Perhaps this will give you back some of what you used to have”. ʿAbdullāh said: “As you say this…”.’ He added the same text as Abu Muʿāwiyah’s narration.**

حَدَّثَنَا عُثْمَانُ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا جَرِيرٌ، عَنِ الأَعْمَشِ، عَنْ إِبْرَاهِيمَ، عَنْ عَلْقَمَةَ، قَالَ: إِنِّي لأَمْشِي مَعَ عَبْدِ اللهِ بْنِ مَسْعُودٍ بِمِنًى، إِذْ لَقِيَهُ عُثْمَانُ بْنُ عَفَّانَ فَقَالَ: هَلُمَّ يَا أَبَا عَبْدِ الرَّحْمَنِ. قَالَ: فَاسْتَخْلاَهُ، فَلَـمَّا رَأَى عَبْدُ اللهِ أَنْ لَيْسَتْ لَهُ حَاجَةٌ - قَالَ - قَالَ لِي: تَعَالَ يَا عَلْقَمَةُ. قَالَ: فَجِئْتُ فَقَالَ لَهُ عُثْمَانُ: أَلاَ نُزَوِّجُكَ يَا أَبَا عَبْدِ الرَّحْمَنِ جَارِيَةً بِكْرًا، لَعَلَّهُ يَرْجِعُ إِلَيْكَ مِنْ نَفْسِكَ مَا كُنْتَ تَعْهَدُ؟ فَقَالَ عَبْدُ اللهِ: لَئِنْ قُلْتَ ذَاكَ.. . فَذَكَرَ بِمِثْلِ حَدِيثِ أَبِي مُعَاوِيَةَ.

[2988–3]. (Dar al-Salam 3233) Abu Bakr ibn Abi Shaybah and Abu Kurayb narrated: both said: Abu Muʿāwiyah narrated; from al-Aʿmash; from ʿUmārah ibn ʿUmayr; from ʿAbd al-Raḥmān ibn Yazīd; from ʿAbdullāh. He said: **‘God’s Messenger (peace be upon him) said to us: “Young people, whoever of you can meet its requirement, should get married. For marriage helps to lower one’s gaze and maintain chastity. Whoever cannot, may resort to fasting, and it will be of help”.’**

حَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، وَأَبُو كُرَيْبٍ قَالا: حَدَّثَنَا أَبُو مُعَاوِيَةَ، عَنِ الأَعْمَشِ، عَنْ عُمَارَةَ بْنِ عُمَيْرٍ، عَنْ عَبْدِ الرَّحْمَنِ بْنِ يَزِيدَ، عَنْ عَبْدِ اللهِ قَالَ: قَالَ لَنَا رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «يَا مَعْشَرَ الشَّبَابِ، مَنِ اسْتَطَاعَ مِنْكُمُ الْبَاءَةَ فَلْيَتَزَوَّجْ. فَإِنَّهُ أَغَضُّ لِلْبَصَرِ، وَأَحْصَنُ لِلْفَرْجِ. وَمَنْ لَمْ يَسْتَطِعْ فَعَلَيْهِ بِالصَّوْمِ، فَإِنَّهُ لَهُ وِجَاءٌ» .

[2989–4]. (Dar al-Salam 3234) ʿUthmān ibn Abi Shaybah narrated: Jarīr narrated; from al-Aʿmash; from ʿUmārah ibn ʿUmayr; from ʿAbd al-Raḥmān ibn Yazīd. He said**: ‘I visited ʿAbdullāh ibn Masʿūd with my uncle ʿAlqamah and al-Aswad, and I was a young man at the time. He mentioned a hadith and I thought he narrated it especially for me. He said: “God’s Messenger (peace be upon him) said…”’ the same text as Abu Muʿāwiyah’s narration. He added: ‘It was only a short while before I got married’.**

حَدَّثَنَا عُثْمَانُ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا جَرِيرٌ، عَنِ الأَعْمَشِ، عَنْ عُمَارَةَ بْنِ عُمَيْرٍ، عَنْ عَبْدِ الرَّحْمَنِ بْنِ يَزِيدَ قَالَ: دَخَلْتُ أَنَا وَعَمِّي، عَلْقَمَةُ،

وَالأَسْوَدُ عَلَى عَبْدِ اللهِ بْنِ مَسْعُودٍ. قَالَ: وَأَنَا شَابٌّ يَوْمَئِذٍ. فَذَكَرَ حَدِيثًا رُئِيتُ أَنَّهُ حَدَّثَ بِهِ مِنْ أَجْلِي. قَالَ قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، بِمِثْلِ حَدِيثِ أَبِي مُعَاوِيَةَ. وَزَادَ قَالَ: فَلَمْ أَلْبَثْ حَتَّى تَزَوَّجْتُ.

[2990–000]. (Dar al-Salam 3235) ʿAbdullāh ibn Saʿīd al-Ashajj narrated to me: Wakīʿ narrated; from al-Aʿmash; from ʿUmārah ibn ʿUmayr; from ʿAbd al-Raḥmān ibn Yazīd; from ʿAbdullāh. He said: **‘We visited him and I was the youngest…’ the same text, but he did not mention: ‘It was only a short while before I got married’.**

حَدَّثَنِي عَبْدُ اللهِ بْنُ سَعِيدٍ الأَشَجُّ، حَدَّثَنَا وَكِيعٌ، حَدَّثَنَا الأَعْمَشُ، عَنْ عُمَارَةَ بْنِ عُمَيْرٍ، عَنْ عَبْدِ الرَّحْمَنِ بْنِ يَزِيدَ، عَنْ عَبْدِ اللهِ قَالَ: دَخَلْنَا عَلَيْهِ وَأَنَا أَحْدَثُ الْقَوْمِ، بِمِثْلِ حَدِيثِهِمْ، وَلَمْ يَذْكُرْ: فَلَمْ أَلْبَثْ حَتَّى تَزَوَّجْتُ.

[2991–5]. (Dar al-Salam 3236) Abu Bakr ibn Nāfiʿ al-ʿAbdī narrated to me: Bahz narrated; Ḥammād ibn Salamah narrated; from Thābit; from Anas; that **‘A few of the Prophet’s companions asked the Prophet’s wives about his worship in private. Some said: “I shall not marry”. Others said: “I shall not eat meat” and others still said: “I shall not sleep on a bed”. He praised God and glorified Him, then said: “How is it that some people say such-and-such? As for me, I pray and sleep, I fast on some days but not on others and I marry women. Whoever dislikes my way does not belong to me”.’**

وَحَدَّثَنِي أَبُو بَكْرِ بْنُ نَافِعٍ الْعَبْدِيُّ، حَدَّثَنَا بَهْزٌ، حَدَّثَنَا حَمَّادُ بْنُ سَلَمَةَ، عَنْ ثَابِتٍ، عَنْ أَنَسٍ، أَنَّ نَفَرًا مِنْ أَصْحَابِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ سَأَلُوا أَزْوَاجَ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ عَنْ عَمَلِهِ فِي السِّرِّ. فَقَالَ بَعْضُهُمْ: لاَ أَتَزَوَّجُ النِّسَاءَ . وَقَالَ بَعْضُهُمْ لاَ آكُلُ اللَّحْمَ . وَقَالَ بَعْضُهُمْ لاَ أَنَامُ عَلَى فِرَاشٍ . فَحَمِدَ اللهَ وَأَثْنَى عَلَيْهِ، فَقَالَ: «مَا بَالُ أَقْوَامٍ قَالُوا كَذَا وَكَذَا؟ لَكِنِّي أُصَلِّي وَأَنَامُ، وَأَصُومُ وَأُفْطِرُ، وَأَتَزَوَّجُ النِّسَاءَ. فَمَنْ رَغِبَ عَنْ سُنَّتِي فَلَيْسَ مِنِّي» .

[2992–6]. (Dar al-Salam 3237) Abu Bakr ibn Abi Shaybah narrated: ʿAbdullāh ibn al-Mubārak narrated [H]. Also, Abu Kurayb Muhammad ibn al-ʿAlā’ narrated (his text); Ibn al-Mubārak reported; from Maʿmar; from al-Zuhrī; from Saʿīd ibn al-Musayyib; from Saʿd ibn Abi Waqqās. He said: **‘God’s Messenger rejected ʿUthmān ibn Maẓʿūn’s intention of remaining celibate. Had he permitted that, we would have castrated ourselves’.**

وَحَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا عَبْدُ اللهِ بْنُ الْـمُبَارَكِ، ح. وَحَدَّثَنَا أَبُو كُرَيْبٍ مُحَمَّدُ بْنُ الْعَلاَءِ (وَاللَّفْظُ لَهُ)، أَخْبَرَنَا ابْنُ الْـمُبَارَكِ، عَنْ مَعْمَرٍ، عَنِ الزُّهْرِيِّ، عَنْ سَعِيدِ بْنِ الْـمُسَيَّبِ، عَنْ سَعْدِ بْنِ أَبِي وَقَّاصٍ قَالَ: رَدَّ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ عَلَى عُثْمَانَ بْنِ مَظْعُونٍ التَّبَتُّلَ، وَلَوْ أَذِنَ لَهُ لاَخْتَصَيْنَا.

[2993–7]. (Dar al-Salam 3238) Abu ʿImrān Muhammad ibn Jaʿfar ibn Ziyād narrated to me: Ibrāhīm ibn Saʿd narrated; from Ibn Shihāb al-Zuhrī; from Saʿīd ibn al-Musayyib. He said: **‘I heard Saʿd say: “ʿUthmān ibn Maẓʿūn’s idea of remaining celibate**

was rejected. Had he been permitted, we would have castrated ourselves”.’

وَحَدَّثَنِي أَبُو عِمْرَانَ مُحَمَّدُ بْنُ جَعْفَرِ بْنِ زِيَادٍ، حَدَّثَنَا إِبْرَاهِيمُ بْنُ سَعْدٍ، عَنِ ابْنِ شِهَابٍ الزُّهْرِيِّ، عَنْ سَعِيدِ بْنِ الْـمُسَيَّبِ، قَالَ: سَمِعْتُ سَعْدًا يَقُولُ: رُدَّ عَلَى عُثْمَانَ بْنِ مَظْعُونٍ التَّبَتُّلُ، وَلَوْ أُذِنَ لَهُ لاَخْتَصَيْنَا.

[2994–8]. (Dar al-Salam 3239) Muhammad ibn Rāfiʿ narrated: Ḥujayn ibn al-Muthannā narrated; Layth narrated; from ʿUqayl; from Ibn Shihāb that he said: Saʿīd ibn al-Musayyib reported to me; that he heard Saʿd ibn Abi Waqqāṣ say: **‘ʿUthmān ibn Maẓʿūn intended to lead a life of celibacy, but God’s Messenger (peace be upon him) prohibited him. Had he been permitted, we would have castrated ourselves’.**

حَدَّثَنَا مُحَمَّدُ بْنُ رَافِعٍ، حَدَّثَنَا حُجَيْنُ بْنُ الْـمُثَنَّى، حَدَّثَنَا لَيْثٌ، عَنْ عُقَيْلٍ، عَنِ ابْنِ شِهَابٍ، أَنَّهُ قَالَ: أَخْبَرَنِي سَعِيدُ بْنُ الْـمُسَيَّبِ، أَنَّهُ سَمِعَ سَعْدَ بْنَ أَبِي وَقَّاصٍ يَقُولُ: أَرَادَ عُثْمَانُ بْنُ مَظْعُونٍ أَنْ يَتَبَتَّلَ، فَنَهَاهُ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ. وَلَوْ أَجَازَ لَهُ ذَلِكَ لاَخْتَصَيْنَا.

Text Explanation

Imam al-Nawawī starts with a detailed discussion of the Arabic word *nikāḥ*, outlining its linguistic meaning and etymology, before highlighting its treatment by Fiqh scholars. The conclusion is that the word is used in Arabic in two senses: the marriage contract and sexual intercourse. Fiqh scholars consider it in three ways, outlined by *Qadi* Ḥusayn of our Shāfiʿī School. The most correct of these three views is that its real significance is the marriage contract, but it is used figuratively to mean intercourse. This is the view confirmed as correct by *Qadi* Abu al-Ṭayyib and endorsed by the leading Shāfiʿī scholar, ʿAbd al-Raḥmān al-Mutawallī and others. This is how it is used in the Qur'an and the hadiths. The second view is that its real sense is sexual intercourse, but it is figuratively used to mean marriage. This is Abu Ḥanīfah's view. The third view is that both senses are correct, but God knows best.

In the first hadith, No. 2986, the Prophet says: 'Young people, who-ever of you can meet marriage requirements should get married. For marriage helps to lower one's gaze and maintain chastity. Whoever cannot, may resort to fasting, and it will be of help'. The Prophet uses the words *maʿshar al-shabāb*, indicating that his address applies to all young people. The age group addressed here is between puberty and thirty years. The Prophet expresses his reference to marriage figuratively, using the word *bā'ah*, which has different meanings. Hence, scholars have two views concerning the exact meaning of the hadith. Yet both views give the same message. The first is that the word is intended in its linguistic sense, which is 'sexual intercourse'. Hence, the Prophet's words would mean whoever is able to meet what marriage entails should get married. A person who cannot afford this should resort to fasting in order to keep his sexual desire in check. This is why the Prophet addresses the young people because they are the ones at a stage of life when sexual desire is at its strongest. The second view is that the word *bā'ah* is used in the sense of the requirements attendant on it.

Scholars who share this view argue that the hadith adds: ‘Whoever cannot, may resort to fasting’. A man who cannot have intercourse does not need to fast in order to keep his desire in check.

The hadith orders people to get married if they can afford it and desire it. This is an order of encouragement, not an obligation. It is not obligatory for anyone to get married, whether one fears to be troubled by desire or not. This is agreed upon by all scholars. It is not known that any considers marriage obligatory except Dāwūd and the Ẓāhirī School, as well as one report from Ahmad. They say that a person who fears being troubled by sexual desire must get married. They add that the obligation applies once only in one’s lifetime. The Ẓāhirīs further add that what is obligatory is marriage, but not necessarily intercourse. They claim that this is the apparent meaning of this hadith and other hadiths, as well as the Qur’an.

The argument of the majority of scholars cites the Qur’anic verse: ‘You may marry of other women as may be agreeable to you, two or three or four. But if you fear that you will not be able to maintain fairness between them, then marry only one, or those whom your right hands possess’. (4: 3) The verse gives a choice between marriage or a bondswoman partner. Imam al-Māzarī said that this is a valid argument in support of the majority view because God gives this choice. Had marriage been obligatory the choice would not have been given. Scholars of legal theory make clear that there can be no question of choice between what is obligatory and what is not. To offer such a choice negates the obligation and renders a person who omits it free of sin.

In hadith No. 2991 the Prophet says: ‘Whoever dislikes my way does not belong to me’. This refers to a person who turns away from the Prophet’s sunnah believing in what is at variance with it, but God knows best.

The question arises as to which is more preferable: marriage or celibacy. Our scholars say that people may be classified into four groups: 1) Those who have the desire to get married and are able to afford it. These are

encouraged to marry; 2) Those who neither find the desire nor are able to afford marriage. For these, marriage is discouraged; 3) Those who have the desire but cannot afford it. Marriage is discouraged for these, and they are recommended to fast in order to keep their desire in check; and 4) Those who can afford marriage but do not have the urge to get married. The view of the Shāfiʿī School is that for such people it is preferable not to marry, but rather to give more time to worship. We may not say that for them marriage is *makrūh*, i.e., reprehensible, but we say non-marriage is preferable. However, according to the Ḥanafī School and some Shāfiʿī and Mālikī scholars, marriage is preferable for this fourth section, but God knows best.

In hadith No. 2986, ʿUthmān ibn ʿAffān says to ʿAbdullāh ibn Masʿūd: ‘Shall we find you a young woman to marry. Maybe she will remind you of some of your past days’. This shows that it is appropriate to make such a suggestion to a friend who does not have such a wife, if he is fit to marry her, as explained above. It also shows that it is preferable to marry a woman in her prime because she is better able to give her husband what is intended in marriage of satisfying instinctive desire and providing a good family atmosphere. Moreover, she is better able to adapt to the good things her husband likes.

ʿUthmān says by way of encouragement: ‘Maybe she will remind you of some of your past days’. This means that she would bring back some of his earlier strength and refresh his vigour.

In hadith No. 2987, ʿUthmān called ʿAbdullāh and spoke to him privately. This shows that it is preferable to keep such conversations private, as some people may feel shy talking about this in public. ʿUthmān suggests that ʿAbdullāh should marry a virgin, which again shows this to be preferable.

In hadith No. 2989 ʿAbd al-Raḥmān ibn Yazīd says: ‘I visited ʿAbdullāh ibn Masʿūd with my uncle ʿAlqamah and al-Aswad’. This is how this sentence occurs in all copies. *Qadi* ʿIyāḍ says that in some copies, it occurs in the following wording: ‘I visited ʿAbdullāh ibn Masʿūd with my uncles:

ʿAlqamah and al-Aswad'. This is obviously wrong because al-Aswad is ʿAbd al-Raḥmān's brother, and ʿAlqamah ibn Qays is the uncle of both.

Hadith No. 2991 mentions that the Prophet addressed the people saying: 'How is it that some people say such-and-such?' This was his practice when he objected to some practice and needed to warn against it. He would mention the action, criticizing it, without naming who did it. This reflects his refined manners. What he had to say against the action itself applies to its doer and to all those present, as well as anyone who may be later informed of it. If the Prophet merely rebuked the perpetrator of that action in public, no such advantage would be gained.

In hadiths No. 2992, 2993 and 2994, the Prophet rejects ʿUthmān ibn Maẓʿūn's intention of remaining celibate. The word used in the hadith to signify celibacy is *tabattul,* which means to abandon worldly pleasures and to devote oneself to worship. The Prophet rejected the idea and prohibited ʿUthmān from doing so. According to our scholars, this is understood to apply to a person who desires marriage and can afford it, as explained above. It also applies to one who suffers as a result of devoting too much time to worship and endures hardship in the process of fulfilling what is arduous. If a person can abstain from normal and permissible desires and pleasures, without harming himself or neglecting the rights due to any wife or other people, then he may not be discouraged from his purpose but rather, he should be encouraged.

These hadiths add: 'Had he been permitted, we would have castrated ourselves'. This means that if the Prophet permitted ʿUthmān ibn Maẓʿūn to abandon marriage and other pleasures we would have done the same, and we would have resorted to castrating ourselves so as to suppress our sexual desires and be able to devote our time to worship. This is understood to mean that, at the time, they thought that such action was permissible. Their thought process, however, was wrong, for castration is forbidden for any human being, whether young or old. Al-Baghawī adds: 'It is also forbidden to castrate any animal that it is forbidden to eat. As for animals that may be

eaten by humans, it is permissible to castrate them when they are young, but not when they grow up', but God knows best.

CHAPTER 2

WHEN DESIRE IS AROUSED

[2995–9]. (Dar al-Salam 3240) ʿAmr ibn ʿAlī narrated: ʿAbd al-Aʿlā narrated; Hishām ibn Abi ʿAbdullāh narrated; from Abu al-Zubayr; from Jābir; that **‘God’s Messenger (peace be upon him) saw a woman. He went to his wife, Zaynab, as she was tanning a piece of leather, and satisfied his desire. He then joined his companions and said to them: “A woman advances in the image of a devil and retreats in the image of a devil. If any of you sees a woman, let him go to his wife. This is bound to stop what he feels”.’**

حَدَّثَنَا عَمْرُو بْنُ عَلِيٍّ، حَدَّثَنَا عَبْدُ الأَعْلَى، حَدَّثَنَا هِشَامُ بْنُ أَبِي عَبْدِ اللهِ، عَنْ أَبِي الزُّبَيْرِ، عَنْ جَابِرٍ، أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ رَأَى امْرَأَةً، فَأَتَى امْرَأَتَهُ زَيْنَبَ وَهْيَ تَمْعَسُ مَنِيئَةً لَهَا، فَقَضَى حَاجَتَهُ. ثُمَّ خَرَجَ إِلَى أَصْحَابِهِ فَقَالَ: «إِنَّ الْـمَرْأَةَ تُقْبِلُ فِي صُورَةِ شَيْطَانٍ، وَتُدْبِرُ فِي صُورَةِ شَيْطَانٍ. فَإِذَا أَبْصَرَ أَحَدُكُمُ امْرَأَةً، فَلْيَأْتِ أَهْلَهُ فَإِنَّ ذَلِكَ يَرُدُّ مَا فِي نَفْسِهِ» .

[2996–000]. (Dar al-Salam 3241) Zuhayr ibn Ḥarb narrated: ʿAbd al-Ṣamad ibn ʿAbd al-Wārith narrated; Ḥarb ibn Abi al-ʿĀliyah narrated; Abu al-Zubayr narrated; from Jābir ibn ʿAbdullāh that **‘The Prophet (peace be upon him) saw a woman…’ the same**

text, except that he said: ‘He went to his wife, Zaynab, as she was tanning a piece of leather…’ He did not mention: ‘She retreats in the image of a devil’.

حَدَّثَنَا زُهَيْرُ بْنُ حَرْبٍ، حَدَّثَنَا عَبْدُ الصَّمَدِ بْنُ عَبْدِ الْوَارِثِ، حَدَّثَنَا حَرْبُ بْنُ أَبِي الْعَالِيَةِ، حَدَّثَنَا أَبُو الزُّبَيْرِ، عَنْ جَابِرِ بْنِ عَبْدِ اللهِ، أَنَّ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ رَأَى امْرَأَةً.. . فَذَكَرَ بِمِثْلِهِ، غَيْرَ أَنَّهُ قَالَ: فَأَتَى امْرَأَتَهُ زَيْنَبَ وَهْيَ تَمْعَسُ مَنِيئَةً . وَلَمْ يَذْكُرْ تُدْبِرُ فِي صُورَةِ شَيْطَانٍ.

[2997–10]. (Dar al-Salam 3242) Salamah ibn Shabīb narrated to me: al-Ḥasan ibn Aʿyan narrated; Maʿqil narrated; from Abu al-Zubayr who said: Jābir said: **‘I heard the Prophet (peace be upon him) say: “If any of you admires a woman and he feels the desire for her, he should go to his wife and have intercourse with her. This will stop what he feels”.’**

وَحَدَّثَنِي سَلَمَةُ بْنُ شَبِيبٍ، حَدَّثَنَا الْحَسَنُ بْنُ أَعْيَنَ، حَدَّثَنَا مَعْقِلٌ، عَنْ أَبِي الزُّبَيْرِ قَالَ: قَالَ جَابِرٌ سَمِعْتُ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ يَقُولُ: «إِذَا أَحَدُكُمْ أَعْجَبَتْهُ الْـمَرْأَةُ فَوَقَعَتْ فِي قَلْبِهِ، فَلْيَعْمِدْ إِلَى امْرَأَتِهِ فَلْيُوَاقِعْهَا. فَإِنَّ ذَلِكَ يَرُدُّ مَا فِي نَفْسِهِ» .

Text Explanation

Hadith No. 2997 explains the first hadith in this chapter. What it means is that if a person feels a sexual urge on seeing a woman, he should go to his wife and have sex with her so as to satisfy his desire and be able to attend to whatever he needs to do. In hadith No. 2995, the Prophet gives a figurative image as he says that ‘a woman advances in the image of a devil and retreats in the image of a devil’. Scholars say this refers to the woman’s desire to be attractive and admired, realizing that by nature a man loves to look at women and is attracted by whatever they have. As such, there is this common aspect of offering temptation and painting what is forbidden as attractive and enjoyable. We may deduce from this that a woman should not mix with men except for what is necessary, and that a man should lower his gaze and turn away.

The same hadith, No. 2995, says: ‘God’s Messenger (peace be upon him) saw a woman. He went to his wife, Zaynab, as she was tanning a piece of leather, and satisfied his desire. He then joined his companions and said to them…’. Scholars say that the Prophet did this in order to explain to people what they should do. His instruction was by word and action. The hadith makes clear that it is permissible for a man to desire to have sex with his wife during the day or at any time, even if she is busy doing something that can be put off for a while. This is because a man’s desire may be strong and unless he satisfies it, he may experience some negative effect, either physically or mentally, but God knows best.

CHAPTER 3

THE FINAL PROHIBITION OF TEMPORARY MARRIAGE

[2998–11]. (Dar al-Salam 3243) Muhammad ibn ʿAbdullāh ibn Numayr al-Hamdānī narrated:[i] my father, Wakīʿ and Ibn Bishr narrated; from Ismāʿīl; from Qays. He said: **‘I heard ʿAbdullāh say: “We used to go on military expeditions with God’s Messenger (peace be upon him), and we had no wives. We thought, should we castrate ourselves? The Prophet commanded us not to do that. He then permitted us to marry a woman temporarily in return for [something like] a garment. ʿAbdullāh then recited the verse that says: “Believers, do not forbid yourselves the good things God has made lawful to you. Do not exceed the bounds, God does not love those who exceed the bounds”. (5: 87)’**

حَدَّثَنَا مُحَمَّدُ بْنُ عَبْدِ اللهِ بْنِ نُمَيْرٍ الْهَمْدَانِيُّ، حَدَّثَنَا أَبِي، وَوَكِيعٌ، وَابْنُ بِشْرٍ، عَنْ إِسْمَاعِيلَ، عَنْ قَيْسٍ قَالَ: سَمِعْتُ عَبْدَ اللهِ يَقُولُ: كُنَّا نَغْزُو مَعَ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، لَيْسَ لَنَا نِسَاءٌ. فَقُلْنَا: أَلاَ نَسْتَخْصِي؟ فَنَهَانَا عَنْ ذَلِكَ، ثُمَّ رَخَّصَ لَنَا أَنْ نَنْكِحَ الْـمَرْأَةَ، بِالثَّوْبِ إِلَى أَجَلٍ. ثُمَّ قَرَأَ عَبْدُ اللهِ: «يَا أَيُّهَا الَّذِينَ آمَنُوا لاَ تُحَرِّمُوا طَيِّبَاتِ مَا أَحَلَّ اللهُ لَكُمْ وَلاَ تَعْتَدُوا إِنَّ اللهَ لاَ يُحِبُّ الْـمُعْتَدِينَ» .

[2999–000]. (Dar al-Salam 3244) ʿUthmān ibn Abi Shaybah narrated: Jarīr narrated; from Ismāʿīl ibn Abi Khālid; with this same chain of transmission: **the same text. He said: ‘He then recited this verse…’ but did not say ‘ʿAbdullāh recited’.**

وَحَدَّثَنَا عُثْمَانُ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا جَرِيرٌ، عَنْ إِسْمَاعِيلَ بْنِ أَبِي خَالِدٍ، بِهَذَا الإِسْنَادِ : مِثْلَهُ، وَقَالَ: ثُمَّ قَرَأَ عَلَيْنَا هَذِهِ الآيَةَ، وَلَمْ يَقُلْ قَرَأَ عَبْدُ اللهِ.

[3000–12]. (Dar al-Salam 3245) Abu Bakr ibn Abi Shaybah narrated: Wakīʿ narrated; from Ismāʿīl; with the same chain of transmission. He said: **‘When we were young men, we said: “Messenger of God, should we castrate ourselves?”’ He did not say: ‘We went on military expeditions’.**

وَحَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا وَكِيعٌ، عَنْ إِسْمَاعِيلَ، بِهَذَا الإِسْنَادِ. قَالَ: كُنَّا وَنَحْنُ شَبَابٌ فَقُلْنَا: يَا رَسُولَ اللهِ، أَلاَ نَسْتَخْصِي؟ وَلَمْ يَقُلْ نَغْزُو.

[3001–13]. (Dar al-Salam 3246) Muhammad ibn Bashshār narrated:[ii] Muhammad ibn Jaʿfar narrated; Shuʿbah narrated; from ʿAmr ibn Dīnār; he said: I heard al-Ḥasan ibn Muhammad narrating from Jābir ibn ʿAbdullāh and Salamah ibn al-Akwaʿ. Both said: **‘God’s Messenger’s caller came over and said: “God’s Messenger permits you to enjoy yourselves”, meaning having temporary marriage’.**

وَحَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ، حَدَّثَنَا مُحَمَّدُ بْنُ جَعْفَرٍ، حَدَّثَنَا شُعْبَةُ، عَنْ عَمْرِو بْنِ دِينَارٍ قَالَ: سَمِعْتُ الْحَسَنَ بْنَ مُحَمَّدٍ يُحَدِّثُ عَنْ جَابِرِ بْنِ عَبْدِ اللهِ، وَسَلَمَةَ بْنِ الأَكْوَعِ، قَالا: خَرَجَ عَلَيْنَا مُنَادِي رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَقَالَ: إِنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَدْ أَذِنَ لَكُمْ أَنْ تَسْتَمْتِعُوا . يَعْنِي مُتْعَةَ النِّسَاءِ.

[3002–14]. (Dar al-Salam 3247) Umayyah ibn Bisṭām al-ʿAyshī narrated to me: Yazīd (meaning ibn Zurayʿ) narrated; Rawḥ (meaning ibn al-Qāsim) narrated; from ʿAmr ibn Dīnār; from al-Ḥasan ibn Muhammad; from Salamah ibn al-Akwaʿ and Jābir ibn ʿAbdullāh; that **‘God’s Messenger came to us and permitted us temporary marriage’.**

وَحَدَّثَنِي أُمَيَّةُ بْنُ بِسْطَامَ الْعَيْشِيُّ، حَدَّثَنَا يَزِيدُ (يَعْنِي ابْنَ زُرَيْعٍ)، حَدَّثَنَا رَوْحٌ (يَعْنِي ابْنَ الْقَاسِمِ)، عَنْ عَمْرِو بْنِ دِينَارٍ، عَنِ الْحَسَنِ بْنِ مُحَمَّدٍ، عَنْ سَلَمَةَ بْنِ الأَكْوَعِ وَجَابِرِ بْنِ عَبْدِ اللهِ أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ أَتَانَا فَأَذِنَ لَنَا فِي الْـمُتْعَةِ.

[3003–15]. (Dar al-Salam 3248) al-Ḥasan al-Ḥulwānī narrated: ʿAbd al-Razzāq narrated; Ibn Jurayj reported; he said: ʿAṭā’ said: **‘Jābir ibn ʿAbdullāh came to perform the ʿumrah. We visited him at his home, and people asked him about several things, then they mentioned temporary marriage. He said: “Yes, we had temporary marriage during the lifetime of the Prophet, Abu Bakr and ʿUmar”.’**

وَحَدَّثَنَا الْحَسَنُ الْحُلْوَانِيُّ، حَدَّثَنَا عَبْدُ الرَّزَّاقِ، أَخْبَرَنَا ابْنُ جُرَيْج قَالَ: قَالَ عَطَاءٌ: قَدِمَ جَابِرُ بْنُ عَبْدِ اللهِ مُعْتَمِرًا، فَجِئْنَاهُ فِي مَنْزِلِهِ. فَسَأَلَهُ الْقَوْمُ عَنْ أَشْيَاءَ، ثُمَّ ذَكَرُوا الْـمُتْعَةَ فَقَالَ: نَعَمِ، اسْتَمْتَعْنَا عَلَى عَهْدِ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ وَأَبِي بَكْرٍ وَعُمَرَ.

[3004–16]. (Dar al-Salam 3249) Muhammad ibn Rāfiʿ narrated to me: ʿAbd al-Razzāq narrated; Ibn Jurayj reported; Abu al-Zubayr reported to me. He said: **‘I heard Jābir ibn ʿAbdullāh say: “We used to marry temporarily, for a few days, in return for a handful of dates or flour, during the Prophet’s lifetime and Abu Bakr’s. Then ʿUmar prohibited it concerning the case of ʿAmr ibn Ḥurayth”.’**

حَدَّثَنِي مُحَمَّدُ بْنُ رَافِعٍ، حَدَّثَنَا عَبْدُ الرَّزَّاقِ، أَخْبَرَنَا ابْنُ جُرَيْجٍ، أَخْبَرَنِي أَبُو الزُّبَيْرِ قَالَ: سَمِعْتُ جَابِرَ بْنَ عَبْدِ اللهِ يَقُولُ: كُنَّا نَسْتَمْتِعُ بِالْقُبْضَةِ مِنَ التَّمْرِ وَالدَّقِيقِ الأَيَّامَ عَلَى عَهْدِ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ وَأَبِي بَكْرٍ، حَتَّى نَهَى عَنْهُ عُمَرُ فِي شَأْنِ عَمْرِو بْنِ حُرَيْثٍ.

[3005–17]. (Dar al-Salam 3250) Ḥāmid ibn ʿUmar al-Bakrāwī narrated: ʿAbd al-Wāḥid (meaning ibn Ziyād) narrated; from ʿĀṣim; from Abu Naḍrah. He said: **‘I was at Jābir ibn ʿAbdullāh’s when someone came and said: “Ibn ʿAbbās and Ibn al-Zubayr disagreed about the two *mutʿahs*”. Jābir said: “We did them when we were with God’s Messenger (peace be upon him). Then ʿUmar prohibited us and we no longer do them”.’**

حَدَّثَنَا حَامِدُ بْنُ عُمَرَ الْبَكْرَاوِيُّ، حَدَّثَنَا عَبْدُ الْوَاحِدِ (يَعْنِي ابْنَ زِيَادٍ)، عَنْ عَاصِمٍ، عَنْ أَبِي نَضْرَةَ قَالَ: كُنْتُ عِنْدَ جَابِرِ بْنِ عَبْدِ اللهِ فَأَتَاهُ آتٍ فَقَالَ: ابْنُ عَبَّاسٍ وَابْنُ الزُّبَيْرِ اخْتَلَفَا فِي الْـمُتْعَتَيْنِ. فَقَالَ جَابِرٌ فَعَلْنَاهُمَا مَعَ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ ثُمَّ نَهَانَا عَنْهُمَا عُمَرُ، فَلَمْ نَعُدْ لَهُمَا.

[3006–18]. (Dar al-Salam 3251) Abu Bakr ibn Abi Shaybah narrated: Yūnus ibn Muhammad narrated; ʿAbd al-Wāḥid ibn Ziyād narrated; Abu ʿUmays narrated; from Iyās ibn Salamah; from his father. He said: **‘God’s Messenger (peace be upon him) gave a concession of temporary marriage in the year of Awṭās, and then forbade it after three days’.**

حَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا يُونُسُ بْنُ مُحَمَّدٍ، حَدَّثَنَا عَبْدُ الْوَاحِدِ بْنُ زِيَادٍ، حَدَّثَنَا أَبُو عُمَيْسٍ، عَنْ إِيَاسِ بْنِ سَلَمَةَ، عَنْ أَبِيهِ قَالَ: رَخَّصَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ عَامَ أَوْطَاسٍ فِي الْـمُتْعَةِ ثَلَاثًا، ثُمَّ نَهَى عَنْهَا.

[3007–19]. (Dar al-Salam 3252) Qutaybah ibn Saʿīd narrated:[iii] Layth narrated; from al-Rabīʿ ibn Sabrah al-Juhanī; from Sabrah his father; that he said: **‘God’s Messenger (peace be upon him) permitted us temporary marriage. I went with another man to a woman from the ʿĀmir tribe who looked young, with an attractive long neck. We offered ourselves. She said: “What will you give?” I said: “My upper garment”, and my companion said: “My upper garment”. My friend’s garment was better than mine, but I was younger. When she looked at his garment, she liked it, but when she looked at me, she liked me better. She**

then said: “You, and your garment is enough”. I stayed with her three nights. Then God’s Messenger (peace be upon him) said: “Whoever of you has a woman on a temporary arrangement must let her go”.’

وَحَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ، حَدَّثَنَا لَيْثٌ، عَنِ الرَّبِيعِ بْنِ سَبْرَةَ الْجُهَنِيِّ، عَنْ أَبِيهِ سَبْرَةَ أَنَّهُ قَالَ: أَذِنَ لَنَا رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ بِالْـمُتْعَةِ، فَانْطَلَقْتُ أَنَا وَرَجُلٌ إِلَى امْرَأَةٍ مِنْ بَنِي عَامِرٍ، كَأَنَّهَا بَكْرَةٌ عَيْطَاءُ، فَعَرَضْنَا عَلَيْهَا أَنْفُسَنَا فَقَالَتْ: مَا تُعْطِي؟ فَقُلْتُ: رِدَائِي . وَقَالَ صَاحِبِي: رِدَائِي . وَكَانَ رِدَاءُ صَاحِبِي أَجْوَدَ مِنْ رِدَائِي، وَ كُنْتُ أَشَبَّ مِنْهُ. فَإِذَا نَظَرَتْ إِلَى رِدَاءِ صَاحِبِي أَعْجَبَهَا، وَإِذَا نَظَرَتْ إِلَىَّ أَعْجَبْتُهَا. ثُمَّ قَالَتْ: أَنْتَ، وَرِدَاؤُكَ يَكْفِينِي . فَمَكَثْتُ مَعَهَا ثَلاَثًا. ثُمَّ إِنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: «مَنْ كَانَ عِنْدَهُ شَىْءٌ مِنْ هَذِهِ النِّسَاءِ الَّتِي يَتَمَتَّعُ فَلْيُخَلِّ سَبِيلَهَا».

[3008–20]. (Dar al-Salam 3253) Abu Kāmil Fuḍayl ibn Ḥusayn al-Jaḥdarī narrated: Bishr (meaning ibn Mufaḍḍal) narrated; ʿUmārah ibn Ghaziyyah narrated; from al-Rabīʿ ibn Sabrah; that his father was with God’s Messenger (peace be upon him) on the expedition to take Makkah over. He said: **‘We stayed there fifteen (or thirty counting days and nights). God’s Messenger (peace be upon him) permitted us the *mutʿah* [i.e., temporary] marriage. I set out with a man from my people. I was smarter than him as he was close to being ugly. Each one of us had a cloak, but mine was old and my cousin’s was new and soft. When we were at the lower or higher end of Makkah a woman who looked young**

and fine in stature met us. We said: “Do you agree to a temporary marriage with one of us?” She said: “What will you give?” Each one of us presented his cloak. She looked at the two of us, and my friend saw her looking to her side. He said: “His cloak is old while mine is new and soft”. She said: “His cloak is not bad”, repeating it twice or three times. Then I married her temporarily. I did not leave her until God’s Messenger forbade it’.

حَدَّثَنَا أَبُو كَامِلٍ فُضَيْلُ بْنُ حُسَيْنٍ الْجَحْدَرِيُّ، حَدَّثَنَا بِشْرٌ (يَعْنِي ابْنَ مُفَضَّلٍ)، حَدَّثَنَا عُمَارَةُ بْنُ غَزِيَّةَ، عَنِ الرَّبِيعِ بْنِ سَبْرَةَ، أَنَّ أَبَاهُ غَزَا مَعَ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَتْحَ مَكَّةَ. قَالَ: فَأَقَمْنَا بِهَا خَمْسَ عَشْرَةَ - ثَلاَثِينَ بَيْنَ لَيْلَةٍ وَيَوْمٍ - فَأَذِنَ لَنَا رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فِي مُتْعَةِ النِّسَاءِ. فَخَرَجْتُ أَنَا وَرَجُلٌ مِنْ قَوْمِي، وَلِي عَلَيْهِ فَضْلٌ فِي الْجَمَالِ، وَهُوَ قَرِيبٌ مِنَ الدَّمَامَةِ. مَعَ كُلِّ وَاحِدٍ مِنَّا بُرْدٌ، فَبُرْدِي خَلَقٌ، وَأَمَّا بُرْدُ ابْنِ عَمِّي فَبُرْدٌ جَدِيدٌ غَضٌّ. حَتَّى إِذَا كُنَّا بِأَسْفَلِ مَكَّةَ أَوْ بِأَعْلاَهَا، فَتَلَقَّتْنَا فَتَاةٌ مِثْلُ الْبَكْرَةِ الْعَنَطْنَطَةِ. فَقُلْنَا هَلْ لَكِ أَنْ يَسْتَمْتِعَ مِنْكِ أَحَدُنَا؟ قَالَتْ وَمَاذَا تَبْذُلاَنِ؟ فَنَشَرَ كُلُّ وَاحِدٍ مِنَّا بُرْدَهُ، فَجَعَلَتْ تَنْظُرُ إِلَى الرَّجُلَيْنِ وَيَرَاهَا صَاحِبِي تَنْظُرُ إِلَى عِطْفِهَا. فَقَالَ إِنَّ بُرْدَ هَذَا خَلَقٌ، وَبُرْدِي جَدِيدٌ غَضٌّ . فَتَقُولُ: بُرْدُ هَذَا لاَ بَأْسَ بِهِ . ثَلاَثَ مِرَارٍ أَوْ مَرَّتَيْنِ. ثُمَّ اسْتَمْتَعْتُ مِنْهَا، فَلَمْ أَخْرُجْ حَتَّى حَرَّمَهَا رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ.

[3009–000]. (Dar al-Salam 3254) Ahmad ibn Saʿīd ibn Ṣakhr al-Dārimī narrated to me: Abu al-Nuʿmān narrated; Wuhayb narrated;

ʿUmārah ibn Ghaziyyah narrated; al-Rabīʿ ibn Sabrah al-Juhanī narrated to me; from his father. He said: **‘We went out with God’s Messenger (peace be upon him) in the Year of Victory to Makkah…’ he narrated the same as Bishr’s narration, but added: ‘She said: “Is that of any use?”’ The narration also adds: ‘His cloak is old, worn out’.**

وَحَدَّثَنِي أَحْمَدُ بْنُ سَعِيدِ بْنِ صَخْرٍ الدَّارِمِيُّ، حَدَّثَنَا أَبُو النُّعْمَانِ، حَدَّثَنَا وُهَيْبٌ، حَدَّثَنَا عُمَارَةُ بْنُ غَزِيَّةَ، حَدَّثَنِي الرَّبِيعُ بْنُ سَبْرَةَ الْجُهَنِيُّ، عَنْ أَبِيهِ قَالَ: خَرَجْنَا مَعَ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ عَامَ الْفَتْحِ إِلَى مَكَّةَ.. فَذَكَرَ بِمِثْلِ حَدِيثِ بِشْرٍ . وَزَادَ قَالَتْ: وَهَلْ يَصْلُحُ ذَاكَ وَفِيهِ؟ قَالَ: إِنَّ بُرْدَ هَذَا خَلَقٌ مَجٌّ.

[3010–21]. (Dar al-Salam 3255) Muhammad ibn ʿAbdullāh ibn Numayr narrated: my father narrated; ʿAbd al-ʿAzīz ibn ʿUmar narrated; al-Rabīʿ ibn Sabrah al-Juhanī narrated to me; that his father narrated to him that he was with God’s Messenger (peace be upon him) and he said: **‘[Listen] you people. I had permitted you to have temporary marriage with women. God has now forbidden this until the Day of Judgement. Whoever has a woman on this basis must leave her. Do not take anything of what you have given them’.**

حَدَّثَنَا مُحَمَّدُ بْنُ عَبْدِ اللهِ بْنِ نُمَيْرٍ، حَدَّثَنَا أَبِي، حَدَّثَنَا عَبْدُ الْعَزِيزِ بْنُ عُمَرَ، حَدَّثَنِي الرَّبِيعُ بْنُ سَبْرَةَ الْجُهَنِيُّ، أَنَّ أَبَاهُ حَدَّثَهُ: أَنَّهُ كَانَ مَعَ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، فَقَالَ: «يَا أَيُّهَا النَّاسُ إِنِّي قَدْ كُنْتُ أَذِنْتُ

لَكُمْ فِي الاِسْتِمْتَاعِ مِنَ النِّسَاءِ، وَإِنَّ اللهَ قَدْ حَرَّمَ ذَلِكَ إِلَى يَوْمِ الْقِيَامَةِ. فَمَنْ كَانَ عِنْدَهُ مِنْهُنَّ شَىْءٌ فَلْيُخَلِّ سَبِيلَهُ، وَلاَ تَأْخُذُوا مِمَّا آتَيْتُمُوهُنَّ شَيْئًا.

[3011–000]. (Dar al-Salam 3256) Abu Bakr ibn Abi Shaybah narrated: ʿAbdah ibn Sulaymān narrated; from ʿAbd al-ʿAzīz ibn ʿUmar; with the same chain of transmission. He said: **‘I saw God’s Messenger standing between the Black Stone and the door [of the Kaʿbah], saying…’ the same as Ibn Numayr’s narration.**

وَحَدَّثَنَاهُ أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا عَبْدَةُ بْنُ سُلَيْمَانَ، عَنْ عَبْدِ الْعَزِيزِ بْنِ عُمَرَ، بِهَذَا الإِسْنَادِ. قَالَ: رَأَيْتُ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَائِمًا بَيْنَ الرُّكْنِ وَالْبَابِ، وَهُوَ يَقُولُ بِمِثْلِ حَدِيثِ ابْنِ نُمَيْرٍ.

[3012–22]. (Dar al-Salam 3257) Isḥāq ibn Ibrāhīm narrated: Yaḥyā ibn Adam reported; Ibrāhīm ibn Saʿd narrated; from ʿAbd al-Malik ibn al-Rabīʿ ibn Sabrah; from his father; from his grandfather. He said: **‘God’s Messenger (peace be upon him) permitted us temporary marriage in the Year of Victory, when we entered Makkah. Then he forbade it before we left it [i.e., Makkah]’.**

حَدَّثَنَا إِسْحَاقُ بْنُ إِبْرَاهِيمَ، أَخْبَرَنَا يَحْيَى بْنُ آدَمَ، حَدَّثَنَا إِبْرَاهِيمُ بْنُ سَعْدٍ، عَنْ عَبْدِ الْـمَلِكِ بْنِ الرَّبِيعِ بْنِ سَبْرَةَ الْجُهَنِيِّ، عَنْ أَبِيهِ، عَنْ جَدِّهِ، قَالَ: أَمَرَنَا رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ بِالْـمُتْعَةِ عَامَ الْفَتْحِ، حِينَ دَخَلْنَا مَكَّةَ. ثُمَّ لَمْ نَخْرُجْ مِنْهَا حَتَّى نَهَانَا عَنْهَا.

[3013–23]. (Dar al-Salam 3258) Yaḥyā ibn Yaḥyā narrated: ʿAbd al-ʿAzīz ibn al-Rabīʿ ibn Sabrah ibn Maʿbad reported; he said: I heard my father Rabīʿ ibn Sabrah narrating from his father Sabrah ibn Maʿbad that **‘The Prophet (peace be upon him) permitted his companions in the year of the fall of Makkah to have a temporary marriage’. He said: ‘I went out with a friend of mine from the Sulaym clan until we found a woman from the ʿĀmir tribe who looked young, with a tall neck. We proposed to her and offered her our two cloaks. She looked at us and found me smarter than my friend but found his cloak better than mine. She thought about it for a while then she chose me. These women stayed with us for three nights, then God’s Messenger (peace be upon him) ordered us to part with them’.**

وَحَدَّثَنَا يَحْيَى بْنُ يَحْيَى، أَخْبَرَنَا عَبْدُ الْعَزِيزِ بْنُ الرَّبِيعِ بْنِ سَبْرَةَ بْنِ مَعْبَدٍ، قَالَ سَمِعْتُ أَبِي رَبِيعَ بْنَ سَبْرَةَ، يُحَدِّثُ عَنْ أَبِيهِ، سَبْرَةَ بْنِ مَعْبَدٍ، أَنَّ نَبِيَّ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ عَامَ فَتْحِ مَكَّةَ أَمَرَ أَصْحَابَهُ بِالتَّمَتُّعِ مِنَ النِّسَاءِ. قَالَ: فَخَرَجْتُ أَنَا وَصَاحِبٌ لِي مِنْ بَنِي سُلَيْمٍ، حَتَّى وَجَدْنَا جَارِيَةً مِنْ بَنِي عَامِرٍ، كَأَنَّهَا بَكْرَةٌ عَيْطَاءُ. فَخَطَبْنَاهَا إِلَى نَفْسِهَا، وَعَرَضْنَا عَلَيْهَا بُرْدَيْنَا. فَجَعَلَتْ تَنْظُرُ فَتَرَانِي أَجْمَلَ مِنْ صَاحِبِي، وَتَرَى بُرْدَ صَاحِبِي أَحْسَنَ مِنْ بُرْدِي. فَآمَرَتْ نَفْسَهَا سَاعَةً، ثُمَّ اخْتَارَتْنِي عَلَى صَاحِبِي. فَكُنَّ مَعَنَا ثَلاَثًا. ثُمَّ أَمَرَنَا رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ بِفِرَاقِهِنَّ.

[3014–24]. (Dar al-Salam 3259) ʿAmr al-Nāqid and Ibn Numayr narrated: both said: Sufyān ibn ʿUyaynah narrated; from al-Zuhrī;

from al-Rabīʿ ibn Sabrah; from his father; that **‘The Prophet prohibited temporary marriage’.**

حَدَّثَنَا عَمْرٌو النَّاقِدُ، وَابْنُ نُمَيْرٍ قَالا: حَدَّثَنَا سُفْيَانُ بْنُ عُيَيْنَةَ، عَنِ الزُّهْرِيِّ، عَنِ الرَّبِيعِ بْنِ سَبْرَةَ، عَنْ أَبِيهِ، أَنَّ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ نَهَى عَنْ نِكَاحِ الْـمُتْعَةِ.

[3015–25]. (Dar al-Salam 3259) Abu Bakr ibn Abi Shaybah narrated: Ibn ʿUlayyah narrated; from Maʿmar; from al-Zuhrī; from al-Rabīʿ ibn Sabrah; from his father; that **‘On the Day of Conquest, God’s Messenger prohibited temporary marriage’.**

وَحَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا ابْنُ عُلَيَّةَ، عَنْ مَعْمَرٍ، عَنِ الزُّهْرِيِّ، عَنِ الرَّبِيعِ بْنِ سَبْرَةَ، عَنْ أَبِيهِ، أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ نَهَى يَوْمَ الْفَتْحِ عَنْ مُتْعَةِ النِّسَاءِ.

[3016–26]. (Dar al-Salam 3260) Ḥasan al-Ḥulwānī and ʿAbd ibn Ḥumayd narrated it to me: from Yaʿqūb ibn Ibrāhīm ibn Saʿd; my father narrated; from Ṣāliḥ; Ibn Shihāb reported; from al-Rabīʿ ibn Sabrah al-Juhanī; from his father that he told him: **‘God’s Messenger (peace be upon him) prohibited temporary marriage at the time of the Conquest and that his father had had such a marriage in return for two red cloaks’.**

وَحَدَّثَنِيهِ حَسَنٌ الْحُلْوَانِيُّ، وَعَبْدُ بْنُ حُمَيْدٍ، عَنْ يَعْقُوبَ بْنِ إِبْرَاهِيمَ بْنِ سَعْدٍ، حَدَّثَنَا أَبِي، عَنْ صَالِحٍ، أَخْبَرَنَا ابْنُ شِهَابٍ، عَنِ الرَّبِيعِ بْنِ سَبْرَةَ الْجُهَنِيِّ، عَنْ أَبِيهِ، أَنَّهُ أَخْبَرَهُ أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ نَهَى

عَنِ الْـمُتْعَةِ زَمَانَ الْفَتْحِ، مُتْعَةِ النِّسَاءِ. وَأَنَّ أَبَاهُ كَانَ تَمَتَّعَ بِبُرْدَيْنِ أَحْمَرَيْنِ.

[3017–27]. (Dar al-Salam 3261) Ḥarmalah ibn Yaḥyā narrated to me: Ibn Wahb reported; Yūnus reported to me; Ibn Shihāb said: ʿUrwah ibn al-Zubayr reported to me; that **‘ʿAbdullāh ibn al-Zubayr addressed the people in Makkah and said: “Some people, whose hearts God has made blind as He gave them blindness in their sight, give a fatwa permitting temporary marriage”. He aimed his remark at a particular person. That person called him and said: “You are uncouth, coarse. For certain, it used to be done during the lifetime of the Imam of all God-fearing people (meaning God’s Messenger)”. Ibn al-Zubayr said to him: “Then try it yourself. For, by God, if you do it, I shall stone you”.’**

Ibn Shihāb said: Khālid ibn al-Muhājir ibn Sayfullāh[iv] told me: **‘I was sitting at someone’s place when a man came and requested his fatwa on temporary marriage. He said it was permissible. Ibn Abi ʿAmrah al-Anṣārī said to him: “Hold on! The man said: “What is wrong? By God, it was done during the lifetime of the Imam of all God-fearing people”. Ibn Abi ʿAmrah said: “It was a concession granted in the early days of Islam for those who needed it, in the same way as [the concession of eating] carrion, blood and pig meat. Later, God perfected the religion and prohibited it”.’**

Ibn Shihāb said: Rabīʿ ibn Sabrah al-Juhanī reported to me that his father said: **‘I had a temporary marriage with a woman from the ʿĀmir tribe and I gave her two red cloaks in return. Then**

God’s Messenger (peace be upon him) prohibited temporary marriage’. Ibn Shihāb added: ‘I heard Rabīʿ ibn Sabrah narrating this to ʿUmar ibn ʿAbd al-ʿAzīz as I was sitting with them’.

وَحَدَّثَنِي حَرْمَلَةُ بْنُ يَحْيَى، أَخْبَرَنَا ابْنُ وَهْبٍ، أَخْبَرَنِي يُونُسُ، قَالَ ابْنُ شِهَابٍ: أَخْبَرَنِي عُرْوَةُ بْنُ الزُّبَيْرِ، أَنَّ عَبْدَ اللهِ بْنَ الزُّبَيْرِ، قَامَ بِمَكَّةَ فَقَالَ: إِنَّ نَاسًا أَعْمَى اللهُ قُلُوبَهُمْ، كَمَا أَعْمَى أَبْصَارَهُمْ، يُفْتُونَ بِالْـمُتْعَةِ - يُعَرِّضُ بِرَجُلٍ - فَنَادَاهُ فَقَالَ: إِنَّكَ لَجِلْفٌ جَافٍ. فَلَعَمْرِي لَقَدْ كَانَتِ الْـمُتْعَةُ تُفْعَلُ عَلَى عَهْدِ إِمَامِ الْـمُتَّقِينَ - يُرِيدُ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ. فَقَالَ لَهُ ابْنُ الزُّبَيْرِ: فَجَرِّبْ بِنَفْسِكَ، فَوَاللهِ لَئِنْ فَعَلْتَهَا لأَرْجُمَنَّكَ بِأَحْجَارِكَ .

قَالَ ابْنُ شِهَابٍ: فَأَخْبَرَنِي خَالِدُ بْنُ الْـمُهَاجِرِ بْنِ سَيْفِ اللهِ أَنَّهُ بَيْنَا هُوَ جَالِسٌ عِنْدَ رَجُلٍ، جَاءَهُ رَجُلٌ فَاسْتَفْتَاهُ فِي الْـمُتْعَةِ، فَأَمَرَهُ بِهَا. فَقَالَ لَهُ ابْنُ أَبِي عَمْرَةَ الأَنْصَارِيُّ: مَهْلاً . قَالَ: مَا هِيَ؟ وَاللهِ لَقَدْ فُعِلَتْ فِي عَهْدِ إِمَامِ الْـمُتَّقِينَ . قَالَ ابْنُ أَبِي عَمْرَةَ: إِنَّهَا كَانَتْ رُخْصَةً فِي أَوَّلِ الإِسْلاَمِ، لِـمَنِ اضْطُرَّ إِلَيْهَا كَالْـمَيْتَةِ وَالدَّمِ وَلَحْمِ الْخِنْزِيرِ. ثُمَّ أَحْكَمَ اللهُ الدِّينَ، وَنَهَى عَنْهَا .

قَالَ ابْنُ شِهَابٍ وَأَخْبَرَنِي رَبِيعُ بْنُ سَبْرَةَ الْجُهَنِيُّ أَنَّ أَبَاهُ قَالَ: قَدْ كُنْتُ اسْتَمْتَعْتُ فِي عَهْدِ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ امْرَأَةً مِنْ بَنِي عَامِرٍ، بِبُرْدَيْنِ أَحْمَرَيْنِ. ثُمَّ نَهَانَا رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ عَنِ الْـمُتْعَةِ . قَالَ ابْنُ شِهَابٍ وَسَمِعْتُ رَبِيعَ بْنَ سَبْرَةَ يُحَدِّثُ ذَلِكَ عُمَرَ بْنَ عَبْدِ الْعَزِيزِ، وَأَنَا جَالِسٌ.

[3018–28]. (Dar al-Salam 3262) Salamah ibn Shabīb narrated to me: al-Ḥasan ibn Aʿyan narrated; Maʿqil narrated; from Ibn Abi ʿAblah; from ʿUmar ibn ʿAbd al-ʿAzīz; he said: al-Rabīʿ ibn Sabrah al-Juhanī narrated; from his father; that **‘God’s Messenger (peace be upon him) prohibited temporary marriage and said: “It is certainly forbidden from this day of yours until the Day of Judgement. Whoever has paid something must not take it back”.’**

وَحَدَّثَنِي سَلَمَةَ بْنُ شَبِيبٍ، حَدَّثَنَا الْحَسَنُ بْنُ أَعْيَنَ، حَدَّثَنَا مَعْقِلٌ، عَنِ ابْنِ أَبِي عَبْلَةَ، عَنْ عُمَرَ بْنِ عَبْدِ الْعَزِيزِ قَالَ: حَدَّثَنَا الرَّبِيعُ بْنُ سَبْرَةَ الْجُهَنِيُّ، عَنْ أَبِيهِ، أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ نَهَى عَنِ الْـمُتْعَةِ، وَقَالَ: «أَلاَ إِنَّهَا حَرَامٌ مِنْ يَوْمِكُمْ هَذَا إِلَى يَوْمِ الْقِيَامَةِ. وَمَنْ كَانَ أَعْطَى شَيْئًا فَلاَ يَأْخُذْهُ» .

[3019–29]. (Dar al-Salam 3263) Yaḥyā ibn Yaḥyā narrated:[v] he said: I read out to Mālik; from Ibn Shihāb; from ʿAbdullāh and al-Ḥasan the sons of Muhammad ibn ʿAlī; from their father; from ʿAlī ibn Abi Ṭālib; that **‘God’s Messenger (peace be upon him) prohibited temporary marriage on the day of [the Battle of] Khaybar and prohibited eating the meat of domestic donkeys’.**

حَدَّثَنَا يَحْيَى بْنُ يَحْيَى، قَالَ قَرَأْتُ عَلَى مَالِكٍ، عَنِ ابْنِ شِهَابٍ، عَنْ عَبْدِ اللهِ وَالْحَسَنِ، ابْنَيْ مُحَمَّدِ بْنِ عَلِيٍّ، عَنْ أَبِيهِمَا، عَنْ عَلِيِّ بْنِ أَبِي طَالِبٍ، أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ نَهَى عَنْ مُتْعَةِ النِّسَاءِ يَوْمَ خَيْبَرَ، وَعَنْ أَكْلِ لُحُومِ الْحُمُرِ الإِنْسِيَّةِ.

[3020–000]. (Dar al-Salam 3264) ʿAbdullāh ibn Muhammad ibn Asmā’ al-Ḍubaʿī narrated: Juwayriyyah narrated; from Mālik; with the same chain of transmission: **the same text and he said: ‘He heard ʿAlī ibn Abi Ṭālib say to a certain person: “You are a lost man. God’s Messenger (peace be upon him) prohibited us…”’ the same as Yaḥyā ibn Yaḥyā’s narration from Mālik.**

وَحَدَّثَنَاهُ عَبْدُ اللهِ بْنُ مُحَمَّدِ بْنِ أَسْمَاءَ الضُّبَعِيُّ، حَدَّثَنَا جُوَيْرِيَةُ، عَنْ مَالِكٍ، بِهَذَا الإِسْنَادِ. وَقَالَ: سَمِعَ عَلِيَّ بْنَ أَبِي طَالِبٍ، يَقُولُ لِفُلاَنٍ: إِنَّكَ رَجُلٌ تَائِهٌ. نَهَانَا رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ . بِمِثْلِ حَدِيثِ يَحْيَى بْنِ يَحْيَى عَنْ مَالِكٍ.

[3021–30]. (Dar al-Salam 3265) Abu Bakr ibn Abi Shaybah, Ibn Numayr and Zuhayr ibn Ḥarb narrated: all from Ibn ʿUyaynah; Zuhayr said: Sufyān ibn ʿUyaynah narrated; from al-Zuhrī; from al-Ḥasan and ʿAbdullāh the sons of Muhammad ibn ʿAlī; from their father; from ʿAlī; that **‘God’s Messenger (peace be upon him) prohibited temporary marriage on the day of [the Battle of] Khaybar and prohibited eating the meat of domestic donkeys’.**

حَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، وَابْنُ نُمَيْرٍ، وَزُهَيْرُ بْنُ حَرْبٍ جَمِيعًا عَنِ ابْنِ عُيَيْنَةَ. قَالَ زُهَيْرٌ: حَدَّثَنَا سُفْيَانُ بْنُ عُيَيْنَةَ، عَنِ الزُّهْرِيِّ، عَنِ الْحَسَنِ وَعَبْدِ اللهِ، ابْنَيْ مُحَمَّدِ بْنِ عَلِيٍّ، عَنْ أَبِيهِمَا، عَنْ عَلِيٍّ، أَنَّ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ نَهَى عَنْ نِكَاحِ الْـمُتْعَةِ يَوْمَ خَيْبَرَ، وَعَنْ لُحُومِ الْحُمُرِ الأَهْلِيَّةِ.

[3022–31]. (Dar al-Salam 3266) Muhammad ibn ʿAbdullāh ibn Numayr narrated: my father narrated; ʿUbaydullāh narrated; from Ibn Shihāb; from al-Ḥasan and ʿAbdullāh the sons of Muhammad ibn ʿAlī; from their father; from ʿAlī; that **‘He heard Ibn ʿAbbās going easy on temporary marriage. He said: “Hold on, Ibn ʿAbbās! For, God’s Messenger (peace be upon him) prohibited it on the day of [the Battle of] Khaybar and prohibited eating the meat of domestic donkeys”.’**

وَحَدَّثَنَا مُحَمَّدُ بْنُ عَبْدِ اللهِ بْنِ نُمَيْرٍ، حَدَّثَنَا أَبِي، حَدَّثَنَا عُبَيْدُ اللهِ، عَنِ ابْنِ شِهَابٍ، عَنِ الْحَسَنِ وَعَبْدِ اللهِ، ابْنَيْ مُحَمَّدِ بْنِ عَلِيٍّ، عَنْ أَبِيهِمَا، عَنْ عَلِيٍّ، أَنَّهُ سَمِعَ ابْنَ عَبَّاسٍ يُلَيِّنُ فِي مُتْعَةِ النِّسَاءِ، فَقَالَ: مَهْلاً يَا ابْنَ عَبَّاسٍ، فَإِنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ نَهَى عَنْهَا يَوْمَ خَيْبَرَ، وَعَنْ لُحُومِ الْحُمُرِ الإِنْسِيَّةِ.

[3023–32]. (Dar al-Salam 3267) Abu al-Ṭāhir and Ḥarmalah ibn Yaḥyā narrated to me: both said: Ibn Wahb reported; Yūnus reported to me; from Ibn Shihāb; from al-Ḥasan and ʿAbdullāh the sons of Muhammad ibn ʿAlī ibn Abi Ṭālib; from their father; that he heard ʿAlī ibn Abi Ṭālib say to Ibn ʿAbbās: **‘God’s Messenger (peace be upon him) prohibited temporary marriage on the day of [the Battle of] Khaybar and prohibited eating the meat of domestic donkeys’.**

وَحَدَّثَنِي أَبُو الطَّاهِرِ، وَحَرْمَلَةُ بْنُ يَحْيَى، قَالا: أَخْبَرَنَا ابْنُ وَهْبٍ، أَخْبَرَنِي يُونُسُ، عَنِ ابْنِ شِهَابٍ، عَنِ الْحَسَنِ وَعَبْدِ اللهِ، ابْنَيْ مُحَمَّدِ بْنِ عَلِيِّ بْنِ أَبِي طَالِبٍ، عَنْ أَبِيهِمَا، أَنَّهُ سَمِعَ عَلِيَّ بْنَ أَبِي طَالِبٍ يَقُولُ لاِبْنِ عَبَّاسٍ:

نَهَى رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ عَنْ مُتْعَةِ النِّسَاءِ يَوْمَ خَيْبَرَ، وَعَنْ أَكْلِ لُحُومِ الْحُمُرِ الإِنْسِيَّةِ.

Text Explanation

Qadi ʿIyāḍ gives a scholarly explanation of the hadiths included in this chapter, highlighting certain gems, but he also included certain points which are subject to different views. It is our purpose to give a full summary of what he said, then mention the points of difference and point out the view of choice. *Qadi* ʿIyāḍ said:

> Al-Māzarī said: It is confirmed that temporary marriage, i.e., *mutʿah*, was permissible in the early days of Islam. It is also confirmed in the authentic hadiths in this chapter that this permission was subsequently abrogated. It is the unanimous verdict that it is forbidden. Only some deviant people still permit it, citing the hadiths that mention it. We have already stated that these hadiths were abrogated and serve no purpose for them. They all cite the verse that says: 'To those with whom you seek to enjoy marriage, you shall give the dowries due to them'. (4: 24) In Ibn Masʿūd's version 'you seek to enjoy marriage for a time'. Ibn Masʿūd's version is odd and totally discarded.[vi] It cannot apply. Zufar[vii] said: 'Whoever enters into a temporary marriage, his marriage is deemed permanent'. Thus, he considers the setting of a time period for the marriage as an invalid condition of the marriage contract. Such conditions are discarded, and the marriage remains valid.
>
> Al-Māzarī also said: In Muslim's *Ṣaḥīḥ*, reports of the prohibition of temporary marriage differ, with some saying that the Prophet (peace be upon him) prohibited it on the day of the Battle of Khaybar and others saying that it was on the Day of Victory at Makkah. To claim that temporary marriage is permissible because these hadiths are contradictory, which makes them inapplicable, is certainly wrong. There is no contradiction in these hadiths because it is perfectly appropriate that the Prophet should prohibit it at one time, then

> reassert the prohibition by stating it again on a later occasion so that it became better and more widely known. The repetition on different occasions enables people who did not hear it on the first occasion to learn of it later. In this case, some narrators heard of it at one time and others became aware of it at another time, with each group stating the time they heard it.

All this was stated by Imam al-Māzarī, as quoted by *Qadi* ʿIyāḍ who goes on to say:

> The hadith permitting temporary marriage has been reported by a number of the Prophet's companions. Muslim relates it as narrated by Ibn Masʿūd, Ibn ʿAbbās, Jābir, Salamah ibn al-Akwaʿ and Sabrah ibn Maʿbad al-Juhanī. In none of these hadiths is there any mention that the permission was given when they were in residence in Madinah. They all occurred during their travels on military expeditions, which was at a time of need or necessity, as their women were not accompanying them. Besides, their home country was of hot climate, which made them rather impatient when they were away from their wives.
>
> In hadith No. 3017, Ibn Abi ʿAmrah said: 'It was a concession granted in the early days of Islam for those who needed it, in the same way as [the concession of eating] carrion…' The same was also reported from Ibn ʿAbbās. Muslim relates from Salamah ibn al-Akwaʿ that it was permitted on the Day of Awṭās and from Sabrah that it was permitted on the Day of Victory at Makkah. The two days are the same. It was subsequently prohibited on the same occasion. In the hadith reported by ʿAlī, it was prohibited on the day of the Battle of Khaybar, which was prior to the fall of Makkah. In a different hadith anthology, the Prophet is said to have prohibited it during the Tabuk Expedition, and this is said to have been narrated by Isḥāq ibn Rāshid from al-Zuhrī from ʿAbdullāh ibn Muhammad ibn ʿAlī, from

his father, from ʿAlī. Yet this is wrong and not confirmed by anyone else. Indeed, the same text is entered by Mālik in *al-Muwaṭṭa'* as narrated by Sufyān ibn ʿUyaynah, al-ʿUmari, Yūnus and others, from al-Zuhrī, but it mentions 'the day of the Battle of Khaybar'. This is how Muslim enters it in his *Ṣaḥīḥ* from several narrators quoting al-Zuhrī. This is indeed the correct version.

Abu Dāwūd relates on the authority of al-Rabīʿ ibn Sabrah, from his father, that the prohibition took place during the Farewell Pilgrimage. Abu Dāwūd said: 'This is the most authentic of all reports on this issue'. It was also reported from Sabrah that it was permitted during the Farewell Pilgrimage, but then the Prophet declared it forbidden until the Day of Judgement. It is further reported by al-Ḥasan al-Baṣrī that it was never permitted except during the compensatory ʿumrah. The same sort of report is attributed to Sabrah al-Juhanī.

In his various reports of the hadith stated by Sabrah, Muslim does not mention any date, except in the narrations by Ahmad ibn Saʿīd al-Dārimī, Isḥāq ibn Ibrāhīm and Yaḥyā ibn Yaḥyā. In these, the time mentioned is the Year of Victory. Scholars say that the report that it was permitted during the Farewell Pilgrimage is a mistake because there was neither need nor celibacy at the time. Most of the Prophet's Companions were accompanied by their wives on this pilgrimage. What is true, as confirmed in several reports, is that the prohibition of temporary marriage was declared during the Farewell Pilgrimage. Thus, the renewal of the prohibition by the Prophet (peace be upon him) was a means of announcing it to the great number of people present, so that those attending would inform others who were not present during that pilgrimage. The purpose, then, was to ensure that the Shariah and God's message were delivered in full. Indeed, the Prophet emphasized the rulings on several matters, making it clear

what was permissible and what was prohibited, stating that temporary marriage was forbidden ‘until the Day of Judgement’.

These reports of prohibiting temporary marriage at Khaybar, during the compensatory ʿumrah and on the Awṭās Day at the time of the Victory in Makkah, probably mean that the Prophet repeated the prohibition on these occasions. The hadith stating its prohibition at Khaybar is authentic, without doubt, and narrated by solid and reliable narrators. However, in Sufyān’s narration [i.e., hadith No. 3021] the hadith says: ‘God’s Messenger (peace be upon him) prohibited temporary marriage on the day of [the Battle of] Khaybar and prohibited eating the meat of domestic donkeys’. Some scholars said that there is a stop in this text, and it means that the Prophet prohibited temporary marriage without defining the time of such prohibition, and he prohibited eating donkey meat on the day of Khaybar.[viii] They, thus, date the prohibition of donkey meat to the day of Khaybar, leaving the prohibition of temporary marriage undated. Thus, they could reconcile the different reports. They add: ‘It is more likely, that the prohibition of temporary marriage was in Makkah, and the prohibition of donkey meat was undoubtedly at Khaybar.

This view could hold, if other hadiths by narrators other than Sufyān support it. But it is better, as we have mentioned, that the Prophet declared it forbidden then. What remains in this latter case is the reported permission of temporary marriage during the compensatory ʿumrah and on the Day of Victory. It is possible that the Prophet might have permitted it anew as a measure of necessity, then prohibited it for all time. This means that the Prophet prohibited temporary marriage on the Day of Khaybar and during the compensatory ʿumrah, then permitted it at the time of the takeover of Makkah as a measure of necessity, before declaring it soon after prohibited for the rest of time. The report that it was permitted during the Farewell Pilgrimage will thus be discarded because it is narrated

from Sabrah al-Juhanī. The fact is that solid and reliable narrators have reported from him its permissibility at the time of the Victory at Makkah, while what they reported at the time of the Farewell Pilgrimage is its prohibition. Therefore, what should be upheld from his hadiths is what is agreed upon by the majority of narrators and confirmed by other Companions of the Prophet, which is its prohibition on the Day of Victory at Makkah. Thus, its prohibition during the Farewell Pilgrimage was for re-emphasis and wider circulation.

Al-Ḥasan said that the prohibition occurred during the compensatory ʿumrah, neither earlier nor later. However, this statement is refuted by the authentic hadiths stating that it was prohibited on the day of the Battle of Khaybar, which preceded the compensatory ʿumrah. These hadiths also state that it was permitted at the time of the Victory at Makkah. This report is attributed to Sabrah al-Juhanī, who is also the narrator of the other reports that are more authentic. Therefore, what is at variance with the authentic is discarded. Some scholars said that the question of temporary marriage is one case that was the subject of prohibition, permission and abrogation twice. But God knows best.

This is what *Qadi* ʿIyāḍ had to say on this matter. Yet the correct view of choice is that the prohibition and permission occurred twice. It was permissible before the Battle of Khaybar but was prohibited at that time. It was subsequently permitted on the Day of Victory, which is the Day of Awṭās – as the two are consecutive. Three days later, it was forbidden forever, and this prohibition continues till the Day of Judgement.

It is not right to say that the permissibility applies to the time before Khaybar and that the prohibition declared at Khaybar was permanent and re-emphasized on the Day of Victory, without being preceded by a relaxation of the prohibition at the time, as stated by al-Māzarī and *Qadi* ʿIyāḍ. The hadiths related by Muslim clearly state that there was a

permissibility at the time. We cannot drop these as there is no reason to prevent the repetition of permissibility [and subsequent prohibition], but God knows best.

Qadi ʿIyāḍ said: Scholars are in agreement that this *mutʿah* meant a temporary marriage for an agreed period and that it does not qualify for inheritance in case of death. The marriage is terminated when the period is over, and no divorce process is needed. Its prohibition is unanimously agreed upon by all scholars, except for the Shia. Ibn ʿAbbās used to say that it was permissible, but he is reported to have retracted and changed his view. Scholars are unanimous in that if a temporary marriage is agreed to now, it is ruled null and void, whether the ruling is given before or after consummation. The only exception is Zufar's view we mentioned earlier, stating that the marriage is permanent and the condition attaching it to a stated period is invalid.

Mālikī scholars have different views on whether the mandatory punishment of adultery is inflicted on a person who has sexual intercourse in a temporary marriage arrangement. The view of our school is that the mandatory punishment of adultery does not apply because of the element of contract and the lack of unanimity. This lack of unanimity is based on disagreement among scholars of legal theory regarding the question: when unanimity is achieved after a period of difference, is the difference discarded and the agreement subsequently unanimous? The more correct view upheld by scholars of our Shāfiʿī School is that the difference is not removed, and the question does not become unanimous. This is stated by *Qadi* Abu Bakr al-Bāqillānī.

Qadi ʿIyāḍ said: 'Scholars are unanimous that if a man enters into a normal marriage contract, intending that he would stay with his wife only for a period he keeps to himself, his marriage is correct and legitimate. It is not a temporary or *mutʿah* marriage. A temporary marriage is one which defines the time condition. However, Mālik said that this is morally

unacceptable. Imam al-Awzāʿī expresses an odd view, saying that it is a *mutʿah* marriage which is devoid of goodness. But God knows best.'

In the first hadith, No. 2298 the Prophet's Companions thought of resorting to castration, but the Prophet prohibited them from doing so. This is consistent with the hadiths in the previous chapter which make castration forbidden as it involves changing God's creation, stopping childbirth and, if done to animals, involves torture, but God knows best. ʿAbdullāh ibn Masʿūd then says: 'He then permitted us to marry a woman temporarily in return for a garment'. This means giving the woman something she accepts, whether a garment or something else. ʿAbdullāh then recited the verse that says: 'Believers, do not forbid yourselves the good things God has made lawful to you'. (5: 87) This perhaps indicates that Ibn Masʿūd might have thought it lawful, as Ibn ʿAbbās did, and that he was not aware of the abrogation of its permissibility.

In hadith No. 3001 Jābir and Salamah says: 'God's Messenger's caller came over and said: "God's Messenger permits you to enjoy yourselves", meaning having temporary marriage'. And in the next hadith they report: 'God's Messenger came to us and permitted us temporary marriage'. This may mean that God's Messenger came at the same time as his caller. However, as the second hadith says 'God's Messenger came to us', it is possible that the Prophet passed them later and said the same to them. In hadith No. 3003 the narrator says: 'We had temporary marriage during the Prophet's lifetime, and Abu Bakr's and ʿUmar's'. This is understood to mean that whoever had a temporary marriage during the mentioned period had not been informed of the abrogation of permissibility and the subsequent prohibition. Hadith No. 3004 quotes the narrator: 'Then ʿUmar prohibited it'. This is when he was informed of the prohibition.

Hadith No. 3010 quotes the Prophet: 'I had permitted you to have temporary marriage with women. God has forbidden this until the Day of Judgement. Whoever has a woman on this basis must let her go. Do not take anything of what you have given them'. This hadith clearly states the

abrogation and what abrogates it in God's Messenger's own words. It is the same as the hadith that says: 'I had previously prohibited the visiting of graves. Now you may visit them'. In the present hadith, we have a clear statement of the prohibition of temporary marriage until the Day of Judgement. Therefore, we must take the previous hadith mentioning that some continued to do it until the reign of Abu Bakr and ʿUmar as indicating that they were unaware of the abrogation. This hadith makes it clear that the dowry given to the woman remains hers and it is not permissible to claim any part of it back. This is the same as in a normal marriage contract. The dowry is owed in full once the marriage has been consummated. No part of it may be claimed back in the case of termination of the marriage.

Hadith No. 3017 mentions that ʿAbdullāh ibn al-Zubayr said in a speech: 'Some people, whose hearts God has made blind as He gave them blindness in their sight, give a fatwa permitting temporary marriage. He aimed his remark at a particular person'. That particular person was ʿAbdullāh ibn ʿAbbās who called him and said: 'You are uncouth, coarse'. Both adjectives are similar in meaning and Ibn ʿAbbās wanted to emphasize his meaning.

Ibn al-Zubayr said to him: 'Then try it yourself. For, by God, if you do it, I shall stone you'. This is understood to mean that he explained to Ibn ʿAbbās how it was abrogated and that there was no longer any doubt about its complete prohibition. Therefore, he gave him a warning that if he still did it and had intercourse on the basis of a temporary marriage, this was a case of adultery and the normal punishment for adultery would become mandatory.

Hadiths No. 3019-3023 mention the prohibition of donkey meat. It is certainly prohibited. This is the view of our Shāfiʿī School and all scholars, apart from a small number of early scholars. It has been reported that Ibn ʿAbbās, ʿĀ'ishah and a number of early scholars said that it is permissible, but it is also reported from them that they ruled that it is forbidden. Mālik is

reported to have ruled that it is reprehensible and also that it is forbidden, but God knows best.

Transmission

The chain of transmission of hadith No. 3002 is as follows: ‘Umayyah ibn Bisṭām al-ʿAyshī narrated to me: Yazīd (meaning ibn Zurayʿ) narrated; Rawḥ (meaning ibn al-Qāsim) narrated; from ʿAmr ibn Dīnār; from al-Ḥasan ibn Muhammad; from Salamah ibn al-Akwaʿ and Jābir ibn ʿAbdullāh’. This is how it occurs in some copies, while in other copies the name of al-Ḥasan ibn Muhammad is dropped, making the chain ‘from ʿAmr ibn Dīnār; from Salamah ibn al-Akwaʿ and Jābir ibn ʿAbdullāh’. Al-Māzarī also mentions that there is difference in copying, with al-Ḥasan mentioned in Ibn Māhān’s narration and dropped in al-Julūdī’s.

The chain of transmission of hadith No. 3005 includes Ḥāmid ibn ʿUmar al-Bakrāwī. He is called al-Bakrāwī in affiliation to his great grandfather Abu Bakarah, a Companion of the Prophet (peace be upon him).

i. Related by al-Bukhari, 4615, 5075 and in a shorter version, 5071.

ii. Related by al-Bukhari, 5117.

iii. Related by Abu Dāwūd, 2072 and in a shorter version 2073; al-Nasā’ī, 3368; Ibn Mājah in a longer version, 1962.

iv. Sayfullāh is a nickname given by the Prophet to Khālid ibn al-Walīd, the great army commander. It means ‘God’s sword’.

v. Related by al-Bukhari, 4216, 5115, 5523 and 6961; al-Tirmidhī, 1121 and 1794; al-Nasā’ī, 3365, 3366, 3367, 4345 and 4346; Ibn Mājah, 1961.

vi. Ibn Masʿūd and some Companions of the Prophet used to write explanatory words in their scrolls of the Qur’an. These were their personal copies and were not meant for circulation.

vii. Zufar was one of the closest disciples of Abu Ḥanīfah.

viii. To make such a suggestion, a change of order of the wording of the hadith is required so as to make it read: ‘God’s Messenger (peace be upon him) prohibited temporary marriage; and prohibited eating the meat of domestic donkeys on the day of [the Battle of] Khaybar’.

CHAPTER 4

THE PROHIBITION OF MARRYING A WOMAN AND HER AUNT

[3024–33]. (Dar al-Salam 3268) ʿAbdullāh ibn Maslamah al-Qaʿnabī narrated:[i] Mālik narrated; from Abu al-Zinād; from al-Aʿraj; from Abu Hurayrah. He said: **‘God’s Messenger (peace be upon him) said: “A woman may not be combined [in marriage] with her paternal aunt, nor with her maternal aunt”.’**

حَدَّثَنَا عَبْدُ اللهِ بْنُ مَسْلَمَةَ الْقَعْنَبِيُّ، حَدَّثَنَا مَالِكٌ، عَنْ أَبِي الزِّنَادِ، عَنِ الأَعْرَجِ، عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللهِ «لا يُجْمَعُ بَيْنَ الْـمَرْأَةِ وَعَمَّتِهَا وَلاَ بَيْنَ الْـمَرْأَةِ وَخَالَتِهَا» .

[3025–34]. (Dar al-Salam 3269) Muhammad ibn Rumḥ ibn al-Muhājir narrated:[ii] al-Layth reported; from Yazīd ibn Abi Ḥabīb; from ʿIrāk ibn Mālik; from Abu Hurayrah: **‘God’s Messenger has forbidden four women to be combined in marriage: a woman and her paternal aunt, and a woman and her maternal aunt’.**

وَحَدَّثَنَا مُحَمَّدُ بْنُ رُمْحِ بْنِ الْـمُهَاجِرِ، أَخْبَرَنَا اللَّيْثُ، عَنْ يَزِيدَ بْنِ أَبِي حَبِيبٍ، عَنْ عِرَاكِ بْنِ مَالِكٍ، عَنْ أَبِي هُرَيْرَةَ، أَنَّ رَسُولَ اللهِ صَلَّى اللهُ

عَلَيْهِ وَسَلَّمَ نَهَى عَنْ أَرْبَعِ نِسْوَةٍ أَنْ يُجْمَعَ بَيْنَهُنَّ: الْـمَرْأَةِ وَعَمَّتِهَا، وَالْـمَرْأَةِ وَخَالَتِهَا.

[3026–35]. (Dar al-Salam 3270) ʿAbdullāh ibn Maslamah ibn Qaʿnab narrated:[iii] ʿAbd al-Raḥmān ibn ʿAbd al-ʿAzīz narrated (Ibn Maslamah said: he is an Anṣārī from Madinah, a descendant of Abu Umāmah ibn Sahl ibn Ḥunayf); from Ibn Shihāb; from Qabīṣah ibn Dhu'ayb; from Abu Hurayrah. He said**: 'I heard God's Messenger (peace be upon him) say: "A paternal aunt may not be married together with her brother's daughter [to the same man], nor a sister's daughter together with her maternal aunt".'**

وَحَدَّثَنَا عَبْدُ اللهِ بْنُ مَسْلَمَةَ بْنِ قَعْنَبٍ، حَدَّثَنَا عَبْدُ الرَّحْمَنِ بْنُ عَبْدِ الْعَزِيزِ (قَالَ ابْنُ مَسْلَمَةَ: مَدَنِيٌّ مِنَ الأَنْصَارِ مِنْ وَلَدِ أَبِي أُمَامَةَ بْنِ سَهْلِ بْنِ حُنَيْفٍ)، عَنِ ابْنِ شِهَابٍ، عَنْ قَبِيصَةَ بْنِ ذُؤَيْبٍ، عَنْ أَبِي هُرَيْرَةَ قَالَ: سَمِعْتُ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ يَقُولُ: «لا تُنْكَحُ الْعَمَّةُ عَلَى بِنْتِ الأَخِ، وَلاَ ابْنَةُ الأُخْتِ عَلَى الْخَالَةِ» .

[3027–36]. (Dar al-Salam 3271) Ḥarmalah ibn Yaḥyā narrated to me: Ibn Wahb reported; Yūnus reported to me; from Ibn Shihāb; Qabīṣah ibn Dhu'ayb al-Kaʿbī reported to me; that he heard Abu Hurayrah say: **'God's Messenger (peace be upon him) prohibited that a man combines in marriage a woman and her paternal aunt or a woman and her maternal aunt'.**

Ibn Shihāb said: **'We think that her father's maternal and paternal aunts are of the same level of relation'.**

وَحَدَّثَنِي حَرْمَلَةُ بْنُ يَحْيَى، أَخْبَرَنَا ابْنُ وَهْبٍ، أَخْبَرَنِي يُونُسُ، عَنِ ابْنِ شِهَابٍ، أَخْبَرَنِي قَبِيصَةُ بْنُ ذُؤَيْبٍ الْكَعْبِيُّ، أَنَّهُ سَمِعَ أَبَا هُرَيْرَةَ يَقُولُ: نَهَى رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ أَنْ يَجْمَعَ الرَّجُلُ بَيْنَ الْـمَرْأَةِ وَعَمَّتِهَا، وَبَيْنَ الْـمَرْأَةِ وَخَالَتِهَا .

قَالَ ابْنُ شِهَابٍ فَنُرَى خَالَةَ أَبِيهَا وَعَمَّةَ أَبِيهَا بِتِلْكَ الْـمَنْزِلَةِ.

[3028–37]. (Dar al-Salam 3272-3273) Abu Maʿn al-Riqāshī narrated to me: Khālid ibn al-Ḥārith narrated; Hishām narrated; from Yaḥyā; that he wrote to him from Abu Salamah; from Abu Hurayrah. He said: **‘God’s Messenger (peace be upon him) said: “A woman may not be married to her paternal aunt’s husband, nor with her maternal aunt’s husband”.’**

وَحَدَّثَنِي أَبُو مَعْنٍ الرَّقَاشِيُّ، حَدَّثَنَا خَالِدُ بْنُ الْحَارِثِ، حَدَّثَنَا هِشَامٌ، عَنْ يَحْيَى، أَنَّهُ كَتَبَ إِلَيْهِ عَنْ أَبِي سَلَمَةَ، عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «لاَ تُنْكَحُ الْـمَرْأَةُ عَلَى عَمَّتِهَا وَلاَ عَلَى خَالَتِهَا» .

Isḥāq ibn Manṣūr narrated to me: ʿUbaydullāh ibn Mūsā narrated; from Shaybān; from Yaḥyā; Abu Salamah narrated to me; that he heard Abu Hurayrah say: **‘God’s Messenger (peace be upon him) said…’ the same text.**

وَحَدَّثَنِي إِسْحَاقُ بْنُ مَنْصُورٍ، حَدَّثَنَا عُبَيْدُ اللهِ بْنُ مُوسَى، عَنْ شَيْبَانَ، عَنْ يَحْيَى، حَدَّثَنِي أَبُو سَلَمَةَ، أَنَّهُ سَمِعَ أَبَا هُرَيْرَةَ يَقُولُ: قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: بِمِثْلِهِ.

[3029–38]. (Dar al-Salam 3274) Abu Bakr ibn Abi Shaybah narrated:[iv] Abu Usāmah narrated; from Hishām; from Muhammad ibn Sīrīn; from Abu Hurayrah; from the Prophet (peace be upon him). He said: **‘Let no man put a marriage proposal to a woman who has been proposed to by his brother; nor may he outbid his brother’s bid in business. A woman may not be sought in marriage by one who is married to her paternal or maternal aunt. Let no woman request her sister’s divorce to take over what she has. Let her get married, for she will only get what is decreed for her’.**

حَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا أَبُو أُسَامَةَ، عَنْ هِشَامٍ، عَنْ مُحَمَّدِ بْنِ سِيرِينَ، عَنْ أَبِي هُرَيْرَةَ، عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: «لا يَخْطُبُ الرَّجُلُ عَلَى خِطْبَةِ أَخِيهِ، وَلاَ يَسُومُ عَلَى سَوْمِ أَخِيهِ. وَلاَ تُنْكَحُ الْـمَرْأَةُ عَلَى عَمَّتِهَا، وَلاَ عَلَى خَالَتِهَا. وَلاَ تَسْأَلُ الْـمَرْأَةُ طَلاَقَ أُخْتِهَا لِتَكْتَفِئَ صَحْفَتَهَا، وَلْتَنْكِحْ. فَإِنَّمَا لَهَا مَا كَتَبَ اللهُ لَهَا.

[3030–39]. (Dar al-Salam 3275) Muḥriz ibn ʿAwn ibn Abī ʿAwn narrated to me: ʿAlī ibn Mushir narrated; from Dāwūd ibn Abi Hind; from Ibn Sīrīn; from Abu Hurayrah. He said: **‘God’s Messenger (peace be upon him) prohibited that a woman be combined in marriage with her paternal aunt or maternal aunt; or that a woman requests her sister’s divorce to take over what she has. God, the Mighty and Exalted, shall provide for her’.**

وَحَدَّثَنِي مُحْرِزُ بْنُ عَوْنِ بْنِ أَبِي عَوْنٍ، حَدَّثَنَا عَلِيُّ بْنُ مُسْهِرٍ، عَنْ دَاوُدَ بْنِ أَبِي هِنْدٍ، عَنِ ابْنِ سِيرِينَ، عَنْ أَبِي هُرَيْرَةَ قَالَ: نَهَى رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ أَنْ تُنْكَحَ الْـمَرْأَةُ عَلَى عَمَّتِهَا أَوْ خَالَتِهَا، أَوْ أَنْ تَسْأَلَ الْـمَرْأَةُ طَلَاقَ أُخْتِهَا لِتَكْتَفِئَ مَا فِي صَحْفَتِهَا، فَإِنَّ اللهَ عَزَّ وَجَلَّ رَازِقُهَا.

[3031–40]. (Dar al-Salam 3276-3277) Muhammad ibn al-Muthannā, Ibn Bashshār and Abu Bakr ibn Nāfiʿ narrated (Ibn al-Muthannā's and Ibn Nāfiʿ's text):[v] They said: Ibn Abi ʿAdiy reported; from Shuʿbah; from ʿAmr ibn Dīnār; from Abu Salamah; from Abu Hurayrah. He said: **'God's Messenger (peace be upon him) prohibited that a woman be combined in marriage with her paternal aunt or maternal aunt'.**

حَدَّثَنَا مُحَمَّدُ بْنُ الْـمُثَنَّى، وَابْنُ بَشَّارٍ، وَأَبُو بَكْرِ بْنُ نَافِعٍ (وَاللَّفْظُ لِابْنِ الْـمُثَنَّى وَابْنِ نَافِعٍ) قَالُوا: أَخْبَرَنَا ابْنُ أَبِي عَدِيٍّ، عَنْ شُعْبَةَ، عَنْ عَمْرِو بْنِ دِينَارٍ، عَنْ أَبِي سَلَمَةَ، عَنْ أَبِي هُرَيْرَةَ قَالَ: نَهَى رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ أَنْ يُجْمَعَ بَيْنَ الْـمَرْأَةِ وَعَمَّتِهَا، وَبَيْنَ الْـمَرْأَةِ وَخَالَتِهَا.

Muhammad ibn Ḥātim narrated to me: Shabābah narrated; Warqā' narrated; from ʿAmr ibn Dīnār; with the same chain of transmission: **the same text.**

وَحَدَّثَنِي مُحَمَّدُ بْنُ حَاتِمٍ، حَدَّثَنَا شَبَابَةُ، حَدَّثَنَا وَرْقَاءُ، عَنْ عَمْرِو بْنِ دِينَارٍ، بِهَذَا الإِسْنَادِ مِثْلَهُ.

Text Explanation

Note: Islam permits polygamy, allowing a man to marry up to four women at the same time. Therefore, speaking about ‘combination in marriage’ means being married to more than one woman at the same time. In societies which do not allow polygamy, a case of marriage combination may need to be expressed in many words.

In the first hadith, No. 3024, the Prophet says: ‘A woman may not be combined [in marriage] with her paternal aunt, nor with her maternal aunt’. And in hadith No. 3026, he puts the same prohibition in a different expression: ‘A paternal aunt may not be married together with her brother’s daughter [to the same man], nor a sister’s daughter together with her maternal aunt’. This is unanimously agreed upon by all scholars, whether these aunts are real, i.e., a father’s or a mother’s sister, or more distant, i.e., the sister of the woman’s grandfather or great-grandfather, or the sister of the woman’s grandmother or great-grandmother, on both her father’s or mother’s sides. All such women are not permissible for a man to marry alongside his wife.

Some of the Khawārij and Shia scholars argue that such combination is permissible, citing the Qur’anic statement: ‘Lawful to you are all women other than these’. (4: 24) This statement occurs after the list of women that are forbidden to marry stated in verses 22-4 of Surah 4, Women. The majority of scholars make the hadiths we have in this chapter the basis of their ruling, saying that they place a limitation on the general text of the said verse. The great majority of scholars of legal theory agree that a singly-reported hadith may add a limitation to a general Qur’anic statement, because a hadith is stated by the Prophet whose duty is to explain to people what God revealed to them in the Qur’an.

During the time when slavery was common, women who were close relatives might be owned by the same man. The question then arose as to whether it was lawful for a master to consort with such relatives at the same

time. The answer was that he could not, and this was unanimously agreed upon, but the Shia argued that it was permissible, and even consorting with two sisters if the man possessed them. They argued that the restriction on combining two sisters at the same time relates to marriage only. All other scholars say that it is forbidden in the same way as marriage because the text forbidding that is general, not limited to marriage. Indeed, all the women listed as prohibited in marriage are also prohibited if they are slaves.

As for marrying other relatives at the same time, such as cousins [born to different parents], this is permissible according to our school and all other scholars, except for what *Qadi* ʿIyāḍ reported that some early scholars said it is forbidden. To marry someone else's divorced or widowed wife and his daughter by a different wife is permissible according to the Shāfiʿī, Mālikī, Ḥanafī schools as well as the majority of scholars. However, al-Ḥasan, ʿIkrimah and Ibn Abi Laylā said that it is not permissible. The evidence in support of the view of the majority is the above-quoted Qur'anic statement: 'Lawful to you are all women other than these'. (4: 24)

The Prophet makes clear that it is forbidden to combine a woman and her aunt, whether paternal or maternal, in marriage. It is obvious that there is no difference between marrying both at the same time or marrying one first and the other later. Both being married to him at one time is clearly forbidden. In the version related by Abu Dāwūd and others: 'Neither the younger may be married ahead of the elder, nor the elder ahead of the younger'. However, if the man marries both at the same time with one marriage contract, the marriage is invalid for both, but if he marries one and later marries the other, the marriage of the first one is correct and that of the second is invalid, but God knows best.

In hadith No. 3029, the Prophet says: 'Let no man put a marriage proposal to a woman who has been proposed to by his brother; nor may he outbid his brother's bid in business'. The Prophet expresses this order in an emphatic form, implying that Muslims must treat this as an absolute order

that may not be disregarded in any situation. We will discuss these two rulings further in their appropriate places.

The Prophet adds in the same hadith: ‘Let no woman request her sister’s divorce to take over what she has. Let her get married, for she will only get what is decreed for her’. This is an order prohibiting any woman from persuading a man to divorce his wife in order to marry her, so that he would then look after her and she would get all that he provides for his present wife. The Prophet uses the expression ‘her sister’ to refer to any woman, not necessarily her true sister. Indeed, it applies to any married woman, whether she is her sister in Islam, or an unbeliever.

i. Related by al-Bukhari, 5109; al-Nasā’ī, 3228.
ii. Related by al-Nasā’ī, 3290.
iii. Related by al-Bukhari, 5110; Abu Dāwūd, 2066; al-Nasā’ī, 3289.
iv. Related by Ibn Mājah, 1929.
v. Related by al-Nasā’ī, 3293.

CHAPTER 5

NO MARRIAGE CONTRACT DURING CONSECRATION

[3032–41]. (Dar al-Salam 3278) Yaḥyā ibn Yaḥyā narrated:[i] he said: I read out to Mālik; from Nāfiʿ; from Nubayh ibn Wahb; that ʿUmar ibn ʿUbaydullāh wanted to get Ṭalḥah ibn ʿUmar married to Shaybah ibn Jubayr's daughter. He sent to Abān ibn ʿUthmān, the hajj chief, inviting him to attend. Abān said: I heard ʿUthmān ibn ʿAffān say: **'God's Messenger (peace be upon him) said: "A man in a state of consecration may not enter into a marriage contract, nor can he perform a marriage contract, and he may not make a marriage proposal".'**

حَدَّثَنَا يَحْيَى بْنُ يَحْيَى، قَالَ قَرَأْتُ عَلَى مَالِكٍ عَنْ نَافِعٍ، عَنْ نُبَيْهِ بْنِ وَهْبٍ، أَنّ عمرَ بنَ عبيد اللهِ أرادَ أن يُزوّج طلحةَ بنَ عمرَ بنتَ شيبةَ بنَ جُبيرٍ. فأرسل إلى أبان بنَ عثمانَ يحضُرُ ذلك، وهو أميرُ الحجّ. فَقَالَ أَبَانٌ: سَمِعْتُ عُثْمَانَ بْنَ عَفَّانَ يَقُولُ: قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «لا يَنْكِحُ الْـمُحْرِمُ، وَلاَ يُنْكَحُ وَلاَ يَخْطُبُ» .

[3033–42]. (Dar al-Salam 3279) Muhammad ibn Abi Bakr al-Muqaddamī narrated: Ḥammād ibn Zayd narrated; from Ayyūb; from Nāfiʿ; Nubayh ibn Wahb narrated to me; ʿUmar ibn ʿUbaydullāh ibn Maʿmar, who was proposing a marriage between

Shaybah ibn ʿUthmān’s daughter and his son, sent me to Abān ibn ʿUthmān, the hajj chief. He [i.e., Abān] said: **‘He looks to me a Bedouin. “A man in consecration may not enter into a marriage contract, nor can he perform a marriage contract”. We have been told this by ʿUthmān reporting from God’s Messenger (peace be upon him)’.**

وَحَدَّثَنَا مُحَمَّدُ بْنُ أَبِي بَكْرٍ الْـمُقَدَّمِيُّ، حَدَّثَنَا حَمَّادُ بْنُ زَيْدٍ، عَنْ أَيُّوبَ، عَنْ نَافِعٍ، حَدَّثَنِي نُبَيْهُ بْنُ وَهْبٍ قَالَ: بَعَثَنِي عُمَرُ بْنُ عُبَيْدِ اللهِ بْنِ مَعْمَرٍ، وَكَانَ يَخْطُبُ بِنْتَ شَيْبَةَ بْنِ عُثْمَانَ عَلَى ابْنِهِ، فَأَرْسَلَنِي إِلَى أَبَانِ بْنِ عُثْمَانَ، وَهُوَ عَلَى الْـمَوْسِمِ، فَقَالَ: أَلاَ أُرَاهُ أَعْرَابِيًّا؟ «إِنَّ الْـمُحْرِمَ لاَ يَنْكِحُ وَلاَ يُنْكَحُ». أَخْبَرَنَا بِذَلِكَ عُثْمَانُ عَنْ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ.

[3034–43]. (Dar al-Salam 3280) Abu Ghassān al-Mismaʿī nar-rated to me: ʿAbd al-Aʿlā narrated [H]. Also, Abu al-Khaṭṭāb Ziyād ibn Yaḥyā narrated to me; Muhammad ibn Sawā’ narrated; both said: Saʿīd narrated; from Maṭar and Yaʿlā ibn Ḥakīm; from Nāfiʿ; from Nubayh ibn Wahb; from Abān ibn ʿUthmān; from ʿUthmān ibn ʿAffān; that God’s Messenger (peace be upon him) said: **‘A man in a state of consecration may not enter into a marriage contract, nor can he perform a marriage contract, and he may not make a marriage proposal’.**

وَحَدَّثَنِي أَبُو غَسَّانَ الْمِسْمَعِيُّ، حَدَّثَنَا عَبْدُ الأَعْلَى، ح. وَحَدَّثَنِي أَبُو الْخَطَّابِ زِيَادُ بْنُ يَحْيَى، حَدَّثَنَا مُحَمَّدُ بْنُ سَوَاءٍ، قَالا جَمِيعًا: حَدَّثَنَا

سَعِيدٌ، عَنْ مَطَرٍ وَيَعْلَى بْنِ حَكِيمٍ، عَنْ نَافِعٍ، عَنْ نُبَيْهِ بْنِ وَهْبٍ، عَنْ أَبَانِ بْنِ عُثْمَانَ، عَنْ عُثْمَانَ بْنِ عَفَّانَ، أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: «لا يَنْكِحُ الْـمُحْرِمُ، وَلاَ يُنْكَحُ وَلاَ يَخْطُبُ» .

[3035–44]. (Dar al-Salam 3281) Abu Bakr ibn Abi Shaybah, ʿAmr al-Nāqid and Zuhayr ibn Ḥarb narrated; all from Ibn ʿUyaynah; Zuhayr said: Sufyān ibn ʿUyaynah narrated; from Ayyūb ibn Mūsā; from Nubayh ibn Wahb; from Abān ibn ʿUthmān; from ʿUthmān quoting the Prophet (peace be upon him). He said: **‘A man in a state of consecration may not enter into a marriage contract and may not make a marriage proposal’.**

وَحَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، وَعَمْرٌو النَّاقِدُ، وَزُهَيْرُ بْنُ حَرْبٍ، جَمِيعًا عَنِ ابْنِ عُيَيْنَةَ. قَالَ زُهَيْرٌ: حَدَّثَنَا سُفْيَانُ بْنُ عُيَيْنَةَ، عَنْ أَيُّوبَ بْنِ مُوسَى، عَنْ نُبَيْهِ بْنِ وَهْبٍ، عَنْ أَبَانِ بْنِ عُثْمَانَ، عَنْ عُثْمَانَ، يَبْلُغُ بِهِ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: «الْـمُحْرِمُ لاَ يَنْكِحُ وَلاَ يَخْطُبُ» .

[3036–45]. (Dar al-Salam 3282) ʿAbd al-Malik ibn Shuʿayb ibn al-Layth narrated: my father narrated to me; from my grandfather; Khālid ibn Yazīd narrated to me; Saʿīd ibn Abi Hilāl narrated to me; from Nubayh ibn Wahb; that **‘ʿUmar ibn ʿUbaydullāh ibn Maʿmar wanted to get his son Ṭalḥah married to Shaybah ibn Jubayr’s daughter, during the pilgrimage. Abān ibn ʿUthmān was at the time the hajj chief. Therefore, he [i.e., ʿUmar ibn ʿUbaydullāh] sent Abān a message saying: “I intend to get Ṭalḥah ibn ʿUmar married and I would be grateful if you attend”. Abān said to him: “You appear to be a coarse Iraqi. I**

heard ʿUthmān ibn ʿAffān say: ‘God’s Messenger (peace be upon him) said: “A man in consecration may not have a marriage contract”.’”’

حَدَّثَنَا عَبْدُ الْـمَلِكِ بْنُ شُعَيْبِ بْنِ اللَّيْثِ، حَدَّثَنِي أَبِي، عَنْ جَدِّي، حَدَّثَنِي خَالِدُ بْنُ يَزِيدَ، حَدَّثَنِي سَعِيدُ بْنُ أَبِي هِلاَلٍ، عَنْ نُبَيْهِ بْنِ وَهْبٍ، أَنَّ عُمَرَ بْنَ عُبَيْدِ اللهِ بْنِ مَعْمَرٍ، أَرَادَ أَنْ يُنْكِحَ ابْنَهُ طَلْحَةَ، بِنْتَ شَيْبَةَ بْنِ جُبَيْرٍ فِي الْحَجِّ. وَأَبَانُ بْنُ عُثْمَانَ يَوْمَئِذٍ أَمِيرُ الْحَاجِّ: فَأَرْسَلَ إِلَى أَبَانٍ: إِنِّي قَدْ أَرَدْتُ أَنْ أُنْكِحَ طَلْحَةَ بْنَ عُمَرَ، فَأُحِبُّ أَنْ تَحْضُرَ ذَلِكَ. فَقَالَ لَهُ أَبَانٌ: أَلاَ أُرَاكَ عِرَاقِيًّا جَافِيًا؟ إِنِّي سَمِعْتُ عُثْمَانَ بْنَ عَفَّانَ يَقُولُ: قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «لاَ يَنْكِحُ الْـمُحْرِمُ» .

[3037–46]. (Dar al-Salam 3283) Abu Bakr ibn Abi Shaybah, Ibn Numayr and Isḥāq al-Ḥanẓalī narrated:[ii] all from Ibn ʿUyaynah; Ibn Numayr said: Sufyān ibn ʿUyaynah narrated; from ʿAmr ibn Dīnār; from Abu al-Shaʿthā’; that Ibn ʿAbbās informed him that **‘the Prophet (peace be upon him) married Maymūnah when he was in consecration’.**

Ibn Numayr added: **‘I narrated this to al-Zuhrī, and he said: “Yazīd ibn al-Aṣamm reported to me that he was not in consecration when he married her”.’**

وَحَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، وَابْنُ نُمَيْرٍ، وَإِسْحَاقُ الْحَنْظَلِيُّ جَمِيعًا عَنِ ابْنِ عُيَيْنَةَ. قَالَ ابْنُ نُمَيْرٍ حَدَّثَنَا سُفْيَانُ بْنُ عُيَيْنَةَ، عَنْ عَمْرِو بْنِ دِينَارٍ، عَنْ أَبِي الشَّعْثَاءِ، أَنَّ ابْنَ عَبَّاسٍ أَخْبَرَهُ أَنَّ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ تَزَوَّجَ مَيْمُونَةَ وَهُوَ مُحْرِمٌ .

زَادَ ابْنُ نُمَيْرٍ فَحَدَّثْتُ بِهِ الزُّهْرِيَّ فَقَالَ أَخْبَرَنِي يَزِيدُ بْنُ الأَصَمِّ أَنَّهُ نَكَحَهَا وَهُوَ حَلاَلٌ.

[3038–47]. (Dar al-Salam 3284) Yaḥyā ibn Yaḥyā narrated: Dāwūd ibn ʿAbd al-Raḥmān reported; from ʿAmr ibn Dīnār; from Jābir ibn Zayd Abu al-Shaʿthā’; from Ibn ʿAbbās; that he said: **‘God’s Messenger (peace be upon him) married Maymūnah when he was in consecration’.**

وَحَدَّثَنَا يَحْيَى بْنُ يَحْيَى، أَخْبَرَنَا دَاوُدُ بْنُ عَبْدِ الرَّحْمَنِ، عَنْ عَمْرِو بْنِ دِينَارٍ، عَنْ جَابِرِ بْنِ زَيْدٍ أَبِي الشَّعْثَاءِ، عَنِ ابْنِ عَبَّاسٍ، أَنَّهُ قَالَ: تَزَوَّجَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ مَيْمُونَةَ وَهُوَ مُحْرِمٌ.

[3039–48]. (Dar al-Salam 3286) Abu Bakr ibn Abi Shaybah narrated:[iii] Yaḥyā ibn Adam narrated; Jarīr ibn Ḥāzim narrated; Abu Fazārah narrated; from Yazīd ibn al-Aṣamm; Maymūnah bint al-Ḥārith narrated to me that **‘God’s Messenger (peace be upon him) married her when he was not in consecration’. He said: ‘She was the maternal aunt of myself and Ibn ʿAbbās’.**

حَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا يَحْيَى بْنُ آدَمَ، حَدَّثَنَا جَرِيرُ بْنُ حَازِمٍ، حَدَّثَنَا أَبُو فَزَارَةَ، عَنْ يَزِيدَ بْنِ الأَصَمِّ، حَدَّثَتْنِي مَيْمُونَةُ بِنْتُ الْحَارِثِ، أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ تَزَوَّجَهَا وَهُوَ حَلاَلٌ. قَالَ: وَكَانَتْ خَالَتِي وَخَالَةَ ابْنِ عَبَّاسٍ.

Text Explanation

In several of these hadiths the Prophet is quoted as saying: ‘A man in a state of consecration may not enter into a marriage contract, nor can he perform a marriage contract, and he may not make a marriage proposal’. Muslim then mentions the different reports whereby the Prophet (peace be upon him) married Maymūnah when he was in consecration, or when he was not. Therefore, scholars hold different views on the validity of marriage by a person in consecration, i.e., *iḥrām*. Mālik, al-Shāfiʿī, Ahmad and the majority of scholars, from the time of the Prophet’s Companions and later, said that marriage by a person in consecration is invalid. They rely on the hadiths in this chapter. Abu Ḥanīfah and Kūfī scholars argue that such a marriage is valid, relying on Maymūnah’s case.

The majority of scholars give several answers in response to the hadith concerning Maymūnah. The most correct of these answers is that the Prophet married her after he finished his *iḥrām* and released himself. This is how it is reported by most Companions of the Prophet. *Qadi* ʿIyāḍ and others said: Only Ibn ʿAbbās reported that the Prophet was in *iḥrām* when he married her, while Maymūnah, Abu Rāfiʿ and others reported that he was not in *iḥrām*. They were better aware of the situation than Ibn ʿAbbās and they were larger in number and more accurate.

The second answer interprets Ibn ʿAbbās’ hadith as meaning that he married her in the Ḥaram area, but he was not in *iḥrām*. This is based on a common use of language, that describes a person as *muḥrim* [i.e., in *iḥrām*] when he is actually in the Ḥaram area, but not necessarily in a state of consecration. A well-known poem includes a line saying: ‘They killed ʿUthmān the Caliph when he was a *muḥrim*’, meaning that he was in the Ḥaram area of Madinah, where no *iḥrām* is required at any time.

The third answer is that there is a conflict here between what is said and the action. According to scholars of legal theory, i.e., *uṣūl al-fiqh*, in such a

scenario, the verbal statement is given precedence because it applies to others while action could be limited to the person doing it.

The fourth answer is given by some of our Shāfiʿī scholars who say that getting married while in *iḥrām* was one of the special privileges given to the Prophet, but it is not applicable to anyone else. This is one of two views and our scholars consider it more correct. The other view is that marriage during consecration, or *iḥrām*, was forbidden to the Prophet, like the rest of the Muslim community.

The hadiths say that a person in *iḥrām* ‘may not perform a marriage contract’. This means that he cannot give a woman in marriage if she is under his guardianship or if she has given him power of attorney to act for her. Scholars say that since a man cannot enter into a marriage contract for himself while he is in *iḥrām*, his status is the same as that of a woman, and a woman cannot perform a marriage contract for herself or anyone else. The apparent import of this view is that there is no difference between one who has a special guardianship, such as the woman’s father, brother or uncle, or a general one which belongs to the ruler, a judge or his deputy. This is the correct view according to our school, endorsed by the great majority of our scholars. However, a few of our scholars said that a person in *iḥrām* who has a general guardianship may perform a marriage contract because such guardianship is more beneficial than the special one. Hence, it is permissible for a Muslim to marry a woman who is a *dhimmi* by such general guardianship.

It should be clear that the prohibition of marriage during consecration is total. If a marriage contract is done in this state, it is invalid, whether the person in consecration is the husband, the wife or the one performing for either through guardianship or power of attorney. Even if the man and the woman to be married are not in consecration and either of them or the woman’s guardian requests a person in *iḥrām* to act on their behalf in the marriage contract, the marriage is invalid. The order not to make a marriage proposal is one of discouragement, not prohibition.

Likewise, it is *makrūh*, i.e., reprehensible for a person in consecration to act as witness in a marriage contract performed by parties who are not in consecration. Some of our scholars say that the contract remains invalid if he is a witness because, like the woman's guardian, witnesses are essential for the validity of the marriage contract. However, the correct view upheld by the majority is that the contract is valid with such a witness.

In hadith No. 3036, Abān says to ʿUmar ibn ʿUbaydullāh: 'You appear to be a coarse Iraqi'. This is how it occurs in all copies in our areas. *Qadi* ʿIyāḍ says that in some copies it occurs as 'coarse Iraqi' and in others 'coarse Bedouin'. The latter is the correct rendering as it means that he was unaware of the sunnah. 'Iraqi' would only be correct if he were aware that the scholars of Kufah considered marriage performed by a person in *iḥrām* to be valid. It would then mean that he was following these scholars of Kufah and was ignorant of the sunnah, but God knows best.

Transmission

The chain of transmission of hadith No. 3032 mentions Yaḥyā ibn Yaḥyā reporting from Mālik; from Nāfiʿ; from Nubayh ibn Wahb; that ʿUmar ibn ʿUbaydullāh wanted to marry Ṭalḥah ibn ʿUmar and Shaybah ibn Jubayr's daughter. The next hadith which is narrated by Ḥammād ibn Zayd from Ayyūb from Nāfiʿ from Nubayh ibn Wahb mentions ''ʿUmar ibn ʿUbaydullāh ibn Maʿmar, who was proposing a marriage between Shaybah ibn ʿUthmān's daughter and his son, sent me to Abān ibn ʿUthmān, the hajj chief'.

This is how Ahmad says it in a narration from Ayyūb: 'the daughter of Shaybah ibn ʿUthmān'. The same is said by Muhammad ibn Rāshid ibn ʿUthmān ibn ʿAmr al-Qurashī. In his *Sunan* anthology, Abu Dāwūd claims that this is the correct name and that Mālik is mistaken. The majority of scholars, however, have said that Mālik's version is the correct one. She was the daughter of Shaybah ibn Jubayr ibn ʿUthmān al-Ḥajabī. It is reported thus by al-Dāraquṭnī, confirming the majority narration.

Qadi ʿIyāḍ said: 'Perhaps those who said Shaybah ibn ʿUthmān associated him with his grandfather. In this case, there is no mistake, and the two reports are correct: one real and the other figurative'. Al-Zubayr ibn Bakkār mentions that the woman in question was called Amat al-Ḥamīd.

The chain of transmission of hadith No. 2033 includes four narrators from the *tābiʿīn* generation, reporting from each other. They are Ayyūb al-Sikhtiyānī, Nāfiʿ, Nubayh and Abān ibn ʿUthmān. We have already mentioned several such cases in this book.

i. Related by Abu Dāwūd, 1841 and 1842; al-Tirmidhī, 840; al-Nasā'ī, 2842, 2843, 2844, 3275 and 3276; Ibn Mājah, 1966.

ii. Related by al-Bukhari, 5114; al-Tirmidhī, 844; al-Nasā'ī, 2837, 2838 and 3272; Ibn Mājah, 1965.

iii. Related by Abu Dāwūd, 1843, al-Tirmidhī, 845; Ibn Mājah, 1964.

CHAPTER 6

THE PROHIBITION OF A COUNTER PROPOSAL

[3040–49]. (Dar al-Salam 3286) Qutaybah ibn Saʿīd narrated:[i] Layth narrated [H]. Also, Ibn Rumḥ narrated; al-Layth reported; from Nāfiʿ; from Ibn ʿUmar; from the Prophet (peace be upon him). He said: **‘Do not outbid one another in sale transactions, and do not make counter proposals of marriage’.**

وَحَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ، حَدَّثَنَا لَيْثٌ، ح. وَحَدَّثَنَا ابْنُ رُمْحٍ، أَخْبَرَنَا اللَّيْثُ، عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ، عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: «لا يَبِعْ بَعْضُكُمْ عَلَى بَيْعِ بَعْضٍ، وَلا يَخْطُبْ بَعْضُكُمْ عَلَى خِطْبَةِ بَعْضٍ» .

[3041–50]. (Dar al-Salam 3287-3288) Zuhayr ibn Ḥarb and Muhammad ibn al-Muthannā narrated to me:[ii] both from Yaḥyā al-Qaṭṭān. Zuhayr said: Yaḥyā narrated; from ʿUbaydullāh; Nāfiʿ reported to me; from Ibn ʿUmar; from the Prophet (peace be upon him). He said: **‘Let not anyone outbid his brother in a sale transaction. No one may make a proposal of marriage to counter his brother’s proposal, unless he permits him’.**

وَحَدَّثَنِي زُهَيْرُ بْنُ حَرْبٍ، وَمُحَمَّدُ بْنُ الْـمُثَنَّى، جَمِيعًا عَنْ يَحْيَى الْقَطَّانِ، قَالَ زُهَيْرٌ: حَدَّثَنَا يَحْيَى، عَنْ عُبَيْدِ اللهِ، أَخْبَرَنِي نَافِعٌ، عَنِ ابْنِ عُمَرَ، عَنِ

النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: «لا يَبِعِ الرَّجُلُ عَلَى بَيْعِ أَخِيهِ، وَلا يَخْطُبْ عَلَى خِطْبَةِ أَخِيهِ، إِلا أَنْ يَأْذَنَ لَهُ» .

Abu Bakr ibn Abi Shaybah narrated: ʿAlī ibn Mushir narrated; from ʿUbaydullāh; with the same chain of transmission: **the same text.**

وَحَدَّثَنَاهُ أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا عَلِيُّ بْنُ مُسْهِرٍ، عَنْ عُبَيْدِ اللهِ، بِهَذَا الإِسْنَادِ.

Also, Abu Kāmil al-Jaḥdarī narrated to me: Ḥammād nar-rated; Ayyūb narrated; from Nāfiʿ; with the same chain of transmission: **the same text.**

وَحَدَّثَنِيهِ أَبُو كَامِلٍ الْجَحْدَرِيُّ، حَدَّثَنَا حَمَّادٌ، حَدَّثَنَا أَيُّوبُ، عَنْ نَافِعٍ، بِهَذَا الإِسْنَادِ.

[3042–51]. (Dar al-Salam 3289) ʿAmr al-Nāqid, Zuhayr ibn Ḥarb and Ibn Abi ʿUmar narrated to me:[iii] Zuhayr said: Sufyān ibn ʿUyaynah narrated; from al-Zuhrī; from Saʿīd; from Abu Hurayrah; that **‘The Prophet (peace be upon him) prohibited that a city dweller acts as agent for a Bedouin and that people connive [in business dealings]. He also prohibited a man making a counter proposal of marriage when his brother has made one or outbidding his brother in a sale. A woman may not seek her sister’s divorce to take over what she has’.**

ʿAmr adds in his narration: **‘No man should outbid his brother in a business deal’.**

وَحَدَّثَنِي عَمْرٌو النَّاقِدُ، وَزُهَيْرُ بْنُ حَرْبٍ، وَابْنُ أَبِي عُمَر. قَالَ زُهَيْرٌ: حَدَّثَنَا سُفْيَانُ بْنُ عُيَيْنَةَ، عَنِ الزُّهْرِيِّ، عَنْ سَعِيدٍ، عَنْ أَبِي هُرَيْرَةَ، أَنَّ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ نَهَى أَنْ يَبِيعَ حَاضِرٌ لِبَادٍ، أَوْ يَتَنَاجَشُوا. أَوْ يَخْطُبَ الرَّجُلُ عَلَى خِطْبَةِ أَخِيهِ، أَوْ يَبِيعَ عَلَى بَيْعِ أَخِيهِ. وَلاَ تَسْأَلِ الْـمَرْأَةُ طَلاَقَ أُخْتِهَا لِتَكْتَفِئَ مَا فِي إِنَائِهَا أَوْ مَا فِي صَحْفَتِهَا .

زَادَ عَمْـرٌو فِي رِوَايَتِـهِ وَلاَ يَسُـمِ الرَّجُـلُ عَـلَى سَـوْمِ أَخِيـهِ.

[3043–52]. (Dar al-Salam 3290) Ḥarmalah ibn Yaḥyā narrated to me: Ibn Wahb reported; Yūnus reported to me; from Ibn Shihāb; Saʿīd ibn al-Musayyib narrated to me; that Abu Hurayrah said: **‘God’s Messenger (peace be upon him) said**: **“Do not connive, and let no one outbid his brother in a business sale. No city dweller may act as an agent for a Bedouin. No man may put a counter proposal of marriage when his brother has made one. No woman may seek her sister’s divorce to take over what she has”.’**

وَحَدَّثَنِي حَرْمَلَةُ بْنُ يَحْيَى، أَخْبَرَنَا ابْنُ وَهْبٍ، أَخْبَرَنِي يُونُسُ، عَنِ ابْنِ شِهَابٍ، حَدَّثَنِي سَعِيدُ بْنُ الْـمُسَيَّبِ، أَنَّ أَبَا هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «لاَ تَنَاجَشُوا. وَلاَ يَبِعِ الْـمَرْءُ عَلَى بَيْعِ أَخِيهِ. وَلاَ يَبِعْ حَاضِرٌ لِبَادٍ. وَلاَ يَخْطُبِ الْـمَرْءُ عَلَى خِطْبَةِ أَخِيهِ. وَلاَ تَسْأَلِ الْـمَرْأَةُ طَلاَقَ الأُخْرَى لِتَكْتَفِئَ مَا فِي إِنَائِهَا.

[3044–53]. (Dar al-Salam 3291) Abu Bakr ibn Abi Shaybah narrated:[iv] ʿAbd al-Aʿlā narrated [H]. Also, Muhammad ibn Rāfiʿ narrated to me: ʿAbd al-Razzāq narrated; all from Maʿmar; from al-

Zuhrī; with the same chain of transmission: **the same text, except that in Maʿmar's narration: 'No man may bid an increase over his brother's bid'.**

وَحَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا عَبْدُ الأَعْلَى، ح. وَحَدَّثَنِي مُحَمَّدُ بْنُ رَافِعٍ، حَدَّثَنَا عَبْدُ الرَّزَّاقِ، جَمِيعًا عَنْ مَعْمَرٍ، عَنِ الزُّهْرِيِّ، بِهَذَا الإِسْنَادِ: مِثْلَهُ، غَيْرَ أَنَّ فِي حَدِيثِ مَعْمَرٍ: «وَلاَ يَزِدِ الرَّجُلُ عَلَى بَيْعِ أَخِيهِ» .

[3045–54]. (Dar al-Salam 3292) Yaḥyā ibn Ayyūb, Qutaybah and Ibn Ḥujr narrated: all from Ismāʿīl ibn Jaʿfar; Ibn Ayyūb said: Ismāʿīl narrated; al-ʿAlā' reported to me; from his father; from Abu Hurayrah; that **'God's Messenger (peace be upon him) said: "A Muslim must not outbid his brother in a business deal and must not make a counter proposal of marriage".'**

حَدَّثَنَا يَحْيَى بْنُ أَيُّوبَ، وَقُتَيْبَةُ، وَابْنُ حُجْرٍ جَمِيعًا عَنْ إِسْمَاعِيلَ بْنِ جَعْفَرٍ. قَالَ ابْنُ أَيُّوبَ: حَدَّثَنَا إِسْمَاعِيلُ، أَخْبَرَنِي الْعَلاَءُ عَنْ أَبِيهِ، عَنْ أَبِي هُرَيْرَةَ، أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: «لاَ يَسُمِ الْـمُسْلِمُ عَلَى سَوْمِ أَخِيهِ وَلاَ يَخْطُبْ عَلَى خِطْبَتِهِ»

[3046–55]. (Dar al-Salam 3293) Ahmad ibn Ibrāhīm al-Dawraqī narrated to me: ʿAbd al-Ṣamad narrated; Shuʿbah narrated; from al-ʿAlā' and Suhayl; from their father; from Abu Hurayrah; from the Prophet (peace be upon him) [H]. Also, Muhammad ibn al-Muthannā narrated: ʿAbd al-Ṣamad narrated; Shuʿbah narrated; from al-Aʿmash; from Abu Ṣāliḥ; from Abu Hurayrah; from the

Prophet: **the same text, except that they said: ‘Against his brother’s bid and against his brother’s marriage proposal’.**

وَحَدَّثَنِي أَحْمَدُ بْنُ إِبْرَاهِيمَ الدَّوْرَقِيُّ، حَدَّثَنَا عَبْدُ الصَّمَدِ، حَدَّثَنَا شُعْبَةُ، عَنِ الْعَلاَءِ وَسُهَيْلٍ، عَنْ أَبِيهِمَا، عَنْ أَبِي هُرَيْرَةَ، عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ ح. وَحَدَّثَنَاهُ مُحَمَّدُ بْنُ الْـمُثَنَّى، حَدَّثَنَا عَبْدُ الصَّمَدِ، حَدَّثَنَا شُعْبَةُ، عَنِ الأَعْمَشِ، عَنْ أَبِي صَالِحٍ، عَنْ أَبِي هُرَيْرَةَ، عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ. إِلاَّ أَنَّهُمْ قَالُوا: «عَلَى سَوْمِ أَخِيهِ، وَخِطْبَةِ أَخِيهِ» .

[3047–56]. (Dar al-Salam 3294) Abu al-Ṭāhir narrated to me:[v] ʿAbdullāh ibn Wahb reported; from al-Layth and others; from Yazīd ibn Abi Ḥabīb; from ʿAbd al-Raḥmān ibn Shumāsah; that he heard ʿUqbah ibn ʿĀmir say as he was speaking on the platform; that **‘God’s Messenger (peace be upon him) said: “A believer is the brother of [every] believer. It is not permissible for a believer to outbid his brother in a business transaction, nor to make a marriage proposal counter to his brother’s proposal, until he has abandoned it”.’**

وَحَدَّثَنِي أَبُو الطَّاهِرِ، أَخْبَرَنَا عَبْدُ اللهِ بْنُ وَهْبٍ، عَنِ اللَّيْثِ، وَغَيْرِهِ، عَنْ يَزِيدَ بْنِ أَبِي حَبِيبٍ، عَنْ عَبْدِ الرَّحْمَنِ بْنِ شُمَاسَةَ، أَنَّهُ سَمِعَ عُقْبَةَ بْنَ عَامِرٍ عَلَى الْمِنْبَرِ يَقُولُ: إِنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: «الْـمُؤْمِنُ أَخُو الْـمُؤْمِنِ. فَلاَ يَحِلُّ لِلْـمُؤْمِنِ أَنْ يَبْتَاعَ عَلَى بَيْعِ أَخِيهِ، وَلاَ يَخْطُبَ عَلَى خِطْبَةِ أَخِيهِ حَتَّى يَذَرَ» .

Text Explanation

The hadiths included in this chapter are very clear in prohibiting making a proposal of marriage to a woman who has received a proposal by another man. Scholars are unanimous that doing this is certainly forbidden if the first man has informed the second that his proposal was accepted, and he neither permitted the other man to speak to the family, nor did he abandon his proposal. If, nevertheless, the second man presents his proposal and it is accepted and the marriage has taken place, the husband has committed a sin, but his marriage is valid, and it is not terminated by a judge. This is the view of our Shāfiʿī School and the majority of scholars.

Dāwūd said that in this case, the marriage is terminated by a judge. Mālik gives two rulings in the same way as these two views. A number of Mālikī scholars say that the marriage is terminated if it has not been consummated, but if it is consummated, it is not terminated. If the first man merely hints that his proposal is acceptable but did not clearly say that it has been accepted, al-Shāfiʿī expresses two views about the prohibition of the second proposal. The more correct view is that it is not forbidden. Some Mālikī scholars say that it is not forbidden to offer a new proposal until the woman's family has approved of the suitor and the dowry has been fixed. In support of the view that the prohibition occurs when the first proposal has been accepted, they cite the hadith narrated by Fāṭimah bint Qays who said that Abu Jahm and Muʿāwiyah proposed to her, and the Prophet did not criticize them for doing so, but rather wanted her for Usāmah. This piece of evidence may be objected to by suggesting that the second suitor might not have known of the first one's proposal. As for the Prophet, he only advised in favour of Usāmah, without putting a proposal on his behalf. Scholars are in agreement that if the first suitor abandons his proposal or if he permits the second suitor, then it is permissible to put a counter proposal. This is clearly stated in these hadiths.

In several of these hadiths, the Prophet prohibits countering “one’s brother’s proposal”. Al-Khaṭṭābī and other scholars said that at face value, the prohibition applies only if the one making the first proposal is a Muslim. If he is an unbeliever, the prohibition does not apply, and a counter proposal is fine. This view is also expressed by al-Awzāʿī. However, the majority of scholars say that putting forward a counter proposal of marriage is also forbidden when the first proposal is made by an unbeliever. They respond to the argument citing a proposal by ‘his brother’ as the expression that imposes no limitation because it takes into consideration the fact that in the great majority of cases the other person is a Muslim. Therefore, the limitation does not apply. Situations like this one, which include non-Muslim individuals being treated in the same way as Muslims, are variously found in the Qur’an, as in: ‘Do not kill your children because of your poverty’. (6: 151) ‘Your stepdaughters – who are your foster children – born to your wives with whom you have consummated your marriage’.[vi] (4: 23)

The correct view which the hadiths imply through their general way of expression is that the prohibition of putting a counter proposal of marriage applies in all cases. There is distinction between a proposer who is devout and one who is a transgressor. However, Ibn al-Qāsim, of the Mālikī School of Fiqh, said that it is permissible to make a counter proposal if the first proposer is a transgressor.

The rulings given in these hadiths prohibiting outbidding in business transactions, conniving to raise prices and assuming an agency role for a Bedouin will be discussed fully in their appropriate places in the Book of Sales, God willing.

Transmission

The chain of transmission of hadith No. 3046 includes: ‘Shuʿbah narrated; from al-ʿAlā’ and Suhayl; from their father’. This is how it occurs in all copies. However, al-ʿAlā’ and Suhayl are not brothers, and they have different fathers. Therefore, to say ‘from their father’ is wrong, and the word should be in the dual form in Arabic and in the plural in English. *Qadi* ʿIyāḍ provides a different way of pronouncing the word, retaining its written form, to express the dual form. This is a little used method, but it makes the chain of transmission correct as it is, but God knows best.

i. Related by al-Bukhari, 2139 and 2165; Abu Dāwūd, 3436; al-Tirmidhī, 1292; al-Nasā’ī, in shorter versions, 3238 and 4515; Ibn Mājah, in a shorter version 2171.
ii. Related by Ibn Mājah in a shorter version, 1868.
iii. Related by al-Bukhari, 2140; Abu Dāwūd in a shorter version, 2080 and 3438; al-Tirmidhī in a shorter version, 1134, and also 1190, 1222 and 1304; al-Nasā’ī, 3239; Ibn Mājah in a shorter version 1867 and also 2172, 2174 and 2175.
iv. Related by al-Bukhari in similar wording 1723; al-Nasā’ī, 4514 and 4519.
v. Related by Ibn Mājah in a shorter version and similar wording, 4246.
vi. The child in the first of these two verses and the stepdaughter in the second may be non-Muslim, but the ruling applies to them.

CHAPTER 7

THE PROHIBITION OF EXCHANGE MARRIAGES

[3048–57]. (Dar al-Salam 3295) Yaḥyā ibn Yaḥyā narrated: he said:[i] I read out to Mālik; from Nāfiʿ; from Ibn ʿUmar that **‘God’s Messenger (peace be upon him) prohibited *shigār* [i.e., exchange marriage] and *shigār* means that a man marries his daughter to someone in return for that other man giving him his daughter to marry, without either woman receiving a dowry’.**

حَدَّثَنَا يَحْيَى بْنُ يَحْيَى، قَالَ قَرَأْتُ عَلَى مَالِكٍ، عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ، أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ نَهَى عَنِ الشِّغَارِ . وَالشِّغَارُ أَنْ يُزَوِّجَ الرَّجُلُ ابْنَتَهُ، عَلَى أَنْ يُزَوِّجَهُ ابْنَتَهُ، وَلَيْسَ بَيْنَهُمَا صَدَاقٌ.

[3049–58]. (Dar al-Salam 3296) Zuhayr ibn Ḥarb, Muhammad ibn al-Muthannā and ʿUbaydullāh ibn Saʿīd narrated to me:[ii] they said: Yaḥyā narrated; from ʿUbaydullāh; from Nāfiʿ; from Ibn ʿUmar; from the Prophet (peace be upon him): **the same text, except that ʿUbaydullāh says in his narration: ‘I said to Nāfiʿ: “What is *shighār*?”’**

وَحَدَّثَنِي زُهَيْرُ بْنُ حَرْبٍ، وَمُحَمَّدُ بْنُ الْـمُثَنَّى، وَعُبَيْدُ اللهِ بْنُ سَعِيدٍ، قَالُوا: حَدَّثَنَا يَحْيَى، عَنْ عُبَيْدِ اللهِ، عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ، عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: بِمِثْلِهِ، غَيْرَ أَنَّ فِي حَدِيثِ عُبَيْدِ اللهِ قَالَ: قُلْتُ لِنَافِعٍ: مَا الشِّغَارُ؟

[3050–59]. (Dar al-Salam 3297) Yaḥyā ibn Yaḥyā narrated: Ḥammād ibn Zayd reported; from ʿAbd al-Raḥmān al-Sarrāj; from Nāfiʿ; from Ibn ʿUmar; that **‘God’s Messenger (peace be upon him) prohibited *shigār* [i.e., exchange marriage]’.**

وَحَدَّثَنَا يَحْيَى بْنُ يَحْيَى، أَخْبَرَنَا حَمَّادُ بْنُ زَيْدٍ، عَنْ عَبْدِ الرَّحْمَنِ السَّرَّاجِ، عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ، أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ نَهَى عَنِ الشِّغَارِ.

[3051–60]. (Dar al-Salam 3298) Muhammad ibn Rāfiʿ narrated to me: ʿAbd al-Razzāq narrated; Maʿmar reported; from Ayyūb; from Nāfiʿ; from Ibn ʿUmar; that the Prophet (peace be upon him) said: **‘No *shighār* is permissible in Islam’.**

وَحَدَّثَنِي مُحَمَّدُ بْنُ رَافِعٍ، حَدَّثَنَا عَبْدُ الرَّزَّاقِ، أَخْبَرَنَا مَعْمَرٌ، عَنْ أَيُّوبَ، عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ، أَنَّ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: «لاَ شِغَارَ فِي الإِسْلاَمِ» .

[3052–61]. (Dar al-Salam 3299-3300) Abu Bakr ibn Abi Shaybah narrated:[iii] Ibn Numayr and Abu Usāmah narrated; from ʿUbaydullāh; from Abu al-Zinād; from al-Aʿraj; from Abu

Hurayrah. He said: **‘God’s Messenger (peace be upon him) prohibited *shigār*’.**

Ibn Numayr adds: **‘*Shighār* means that one man says to another “give me your daughter to marry and I will give you my daughter to marry” or “marry me to your sister and I will marry you to my sister”.’**

حَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا ابْنُ نُمَيْرٍ وَأَبُو أُسَامَةَ، عَنْ عُبَيْدِ اللهِ، عَنْ أَبِي الزِّنَادِ، عَنِ الأَعْرَجِ، عَنْ أَبِي هُرَيْرَةَ قَالَ: نَهَى رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ عَنِ الشِّغَارِ .

زَادَ ابْنُ نُمَيْرٍ: وَالشِّغَارُ أَنْ يَقُولَ الرَّجُلُ لِلرَّجُلِ زَوِّجْنِي ابْنَتَكَ وَأُزَوِّجُكَ ابْنَتِي، أَوْ زَوِّجْنِي أُخْتَكَ وَأُزَوِّجُكَ أُخْتِي.

Abu Kurayb narrated: ʿAbdah narrated; from ʿUbaydullāh (who is ibn ʿUmar); with the same chain of transmission: **the same text, but he does not mention the explanation by Ibn Numayr.**

وَحَدَّثَنَاهُ أَبُو كُرَيْبٍ، حَدَّثَنَا عَبْدَةُ، عَنْ عُبَيْدِ اللهِ (وَهُوَ ابْنُ عُمَرَ)، بِهَذَا الإِسْنَادِ. وَلَمْ يَذْكُرْ زِيَادَةَ ابْنِ نُمَيْرٍ.

[3053–62]. (Dar al-Salam 3301) Ḥārūn ibn ʿAbdullāh narrated to me: Ḥajjāj ibn Muhammad narrated; he said: Ibn Jurayj said [H]. Also, Isḥāq ibn Ibrāhīm and Muhammad ibn Rāfiʿ narrated; from ʿAbd al-Razzāq; Ibn Jurayj reported; Abu al-Zubayr reported to me; that he heard Jābir ibn ʿAbdullāh say: **‘God’s Messenger (peace be upon him) prohibited *shigār* [i.e., exchange marriage]’.**

وَحَدَّثَنِي هَارُونُ بْنُ عَبْدِ اللهِ، حَدَّثَنَا حَجَّاجُ بْنُ مُحَمَّدٍ قَالَ: قَالَ ابْنُ جُرَيْجٍ ح. وَحَدَّثَنَاهُ إِسْحَاقُ بْنُ إِبْرَاهِيمَ، وَمُحَمَّدُ بْنُ رَافِعٍ، عَنْ عَبْدِ الرَّزَّاقِ، أَخْبَرَنَا ابْنُ جُرَيْجٍ، أَخْبَرَنِي أَبُو الزُّبَيْرِ، أَنَّهُ سَمِعَ جَابِرَ بْنَ عَبْدِ اللهِ يَقُولُ: نَهَى رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ عَنِ الشِّغَارِ.

Text Explanation

These hadiths focus on the prohibition of exchange marriage, which is known in Arabic as *shighār*. The first hadith, No. 3048, includes an explanation of *shighār*, but it is clear that this explanation is provided by Nāfiʿ, not attributed to God's Messenger (peace be upon him). The linguistic meaning of *shighār* is 'to lift'. Therefore, such an exchange marriage is similar to one man saying to another: 'You cannot lift my daughter's leg until I can lift your daughter's leg'. It is also said that the word derives from the expression describing a city that has become empty, using the verb *shagharat*, which is derived from the same root. Its applicability to exchange marriage is based on the fact that such marriage involves no dowry payment.

Shighār used to be practised in pre-Islamic days. Scholars are unanimous that it is prohibited, but they differ on whether the prohibition means that, if done, the marriage is invalid. According to al-Shāfiʿī, the prohibition rules it invalid. Al-Khaṭṭābī reports the same view as being stated by Ahmad, Isḥāq and Abu ʿUbayd. On the other hand, Mālik said the marriage is annulled, whether it has been consummated or not. One report from Mālik makes the annulment only before consummation, but not after it. A number of scholars have said that the marriage becomes valid if each woman receives a dowry equal to that of her peers. This is Abu Ḥanīfah's view. The same view is said to be shared by ʿAṭā', al-Zuhrī, al-Layth, and it is one ruling given by Ahmad and Isḥāq. It is also shared by Abu Thawr and Ibn Jarīr al-Ṭabarī.

Scholars are unanimous that the same ruling applies to relatives other than daughters, such as sisters, nieces, aunts, cousins and maids. Its clear form is that one man says to another: 'I will give you my daughter to marry if you give me your daughter to marry.' Thus, each woman is made the dowry of the other woman. The other man says: I accept. But God knows best.

i. Related by al-Bukhari, 5112; Abu Dāwūd, 2074; al-Tirmidhī, 1124; al-Nasā'ī, 3337, Ibn Mājah, 1883.
ii. Related by al-Bukhari, 6960; Abu Dāwūd, 2074; al-Nasā'ī, 3334.
iii. Related by al-Nasā'ī, 3338; Ibn Mājah, 1884.

CHAPTER 8

HONOURING CONDITIONS OF MARRIAGE

[3054–63]. (Dar al-Salam 3302) Yaḥyā ibn Ayyūb narrated:[i] Hushaym narrated [H]. Also, Ibn Numayr narrated; Wakīʿ narrated [H]. And Abu Bakr ibn Abi Shaybah narrated: Abu Khālid al-Aḥmar narrated [H]. Further, Muhammad ibn al-Muthannā narrated; Yaḥyā (who is al-Qaṭṭān) narrated; from ʿAbd al-Ḥamīd ibn Jaʿfar; from Yazīd ibn Abi Ḥabīb; from Marthad ibn ʿAbdullāh al-Yazanī; from ʿUqbah ibn ʿĀmir. He said: **‘God’s Messenger (peace be upon him) said: “The condition that most deserves to be honoured is one which makes your woman lawful to you”.’**

This is the wording narrated by Abu Bakr and Ibn al-Muthannā, but Ibn al-Muthannā used ‘conditions’ in the plural.

حَدَّثَنَا يَحْيَى بْنُ أَيُّوبَ، حَدَّثَنَا هُشَيْمٌ، ح. وَحَدَّثَنَا ابْنُ نُمَيْرٍ، حَدَّثَنَا وَكِيعٌ، ح. وَحَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا أَبُو خَالِدٍ الأَحْمَرُ، ح. وَحَدَّثَنَا مُحَمَّدُ بْنُ الْـمُثَنَّى، حَدَّثَنَا يَحْيَى (وَهُوَ الْقَطَّانُ)، عَنْ عَبْدِ الْحَمِيدِ بْنِ جَعْفَرٍ، عَنْ يَزِيدَ بْنِ أَبِي حَبِيبٍ، عَنْ مَرْثَدِ بْنِ عَبْدِ اللهِ الْيَزَنِيِّ، عَنْ عُقْبَةَ بْنِ عَامِرٍ قَالَ: قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «إِنَّ أَحَقَّ الشَّرْطِ أَنْ يُوفَى بِهِ مَا اسْتَحْلَلْتُمْ بِهِ الْفُرُوجَ».

هَذَا لَفْظُ حَدِيثِ أَبِي بَكْرٍ وَابْنِ الْـمُثَنَّى . غَيْرَ أَنَّ ابْنَ الْـمُثَنَّى قَالَ: «الشُّرُوطِ» .

Text Explanation

The Prophet says that the conditions made at the time of a marriage contract are those which deserve to be fulfilled. Al-Shāfiʿī and the majority of scholars say that this is understood to refer to conditions that do not contradict the nature of marriage, but are rather included in its purpose and what it entails, such as stipulating kindly treatment, looking properly after one's wife and fulfilling her needs of shelter and clothing according to what is reasonable, and that her husband does not ignore any of her rights, as well as fair and equal treatment with his other wives, if any. Other normal conditions include that she asks permission before going out, does not act rebelliously, does not fast voluntarily without his permission, and does not dispense with his money or property unless he agrees, etc.

As for conditions that contravene the standards of marriage, such as a woman stipulating a condition that her husband does not marry another wife, or the man making a condition that he would not look after his wife financially, or that he will not ask her to travel with him, etc. such conditions need not be fulfilled. Indeed, such conditions are null and void, while the marriage is valid when a dowry of the same standard as the woman's peers normally receive is paid. This view is based on the hadith which quotes the Prophet as saying: 'Every condition that is not consistent with God's book is null and void". On the other hand, Ahmad and a number of scholars say that all conditions must be honoured, quoting the above-mentioned hadith, but God knows best.

i. Related by al-Bukhari, 2721 and 5151; Abu Dāwūd, 2139; al-Tirmidhī, 1127; al-Nasā'ī, 3281 and 3282; Ibn Mājah, 1954.

CHAPTER 9

THE WOMAN’S ACCEPTANCE OF MARRIAGE

[3055–64]. (Dar al-Salam 3303-3304) ʿUbaydullāh ibn ʿUmar ibn Maysarah al-Qawārīrī narrated to me:[i] Khālid ibn al-Ḥārith narrated; Hishām narrated; from Yaḥyā ibn Abi Kathīr; Abu Salamah narrated; Abu Hurayrah narrated; that **‘God’s Messenger (peace be upon him) said: “No mature woman may be given in marriage until she has given her instructions, and no virgin woman may be given in marriage until she has given permission”. They asked: “Messenger of God, how does she give permission?” He said: “By remaining silent”.’**

حَدَّثَنِي عُبَيْدُ اللهِ بْنُ عُمَرَ بْنِ مَيْسَرَةَ الْقَوَارِيرِيُّ، حَدَّثَنَا خَالِدُ بْنُ الْحَارِثِ، حَدَّثَنَا هِشَامٌ، عَنْ يَحْيَى بْنِ أَبِي كَثِيرٍ، حَدَّثَنَا أَبُو سَلَمَةَ، حَدَّثَنَا أَبُو هُرَيْرَةَ، أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: «لا تُنْكَحُ الأَيِّمُ حَتَّى تُسْتَأْمَرَ، وَلاَ تُنْكَحُ الْبِكْرُ حَتَّى تُسْتَأْذَنَ». قَالُوا: يَا رَسُولَ اللهِ، وَكَيْفَ إِذْنُهَا؟ قَالَ: «أَنْ تَسْكُتَ» .

Zuhayr ibn Ḥarb narrated to me:[ii] Ismāʿīl ibn Ibrāhīm narrated; al-Ḥajjāj ibn Abi ʿUthmān narrated [H]. Also, Ibrāhīm ibn Mūsā narrated to me; ʿĪsā (meaning ibn Yūnus) reported; from al-Awzāʿī [H]. And Zuhayr ibn Ḥarb narrated to me; Ḥusayn ibn Muhammad

narrated; Shaybān narrated [H]. Also, ʿAmr al-Nāqid and Muhammad ibn Rāfiʿ narrated to me; both said: ʿAbd al-Razzāq narrated; from Maʿmar [H]. Further, ʿAbdullāh ibn ʿAbd al-Raḥmān al-Dārimī narrated; Yaḥyā ibn Ḥassān reported; Muʿāwiyah narrated; all from Yaḥyā ibn Kathīr: **the same meaning as Hishām's text and chain of transmission.**

In this hadith, the wordings of the narrations of Hishām, Shaybān and Muʿāwiyah ibn Sallām are the same.

وَحَدَّثَنِي زُهَيْرُ بْنُ حَرْبٍ، حَدَّثَنَا إِسْمَاعِيلُ بْنُ إِبْرَاهِيمَ، حَدَّثَنَا الْحَجَّاجُ بْنُ أَبِي عُثْمَانَ ح. وَحَدَّثَنِي إِبْرَاهِيمُ بْنُ مُوسَى، أَخْبَرَنَا عِيسَى (يَعْنِي ابْنَ يُونُسَ)، عَنِ الأَوْزَاعِيِّ، ح. وَحَدَّثَنِي زُهَيْرُ بْنُ حَرْبٍ، حَدَّثَنَا حُسَيْنُ بْنُ مُحَمَّدٍ، حَدَّثَنَا شَيْبَانُ، ح. وَحَدَّثَنِي عَمْرٌو النَّاقِدُ، وَمُحَمَّدُ بْنُ رَافِعٍ قَالا: حَدَّثَنَا عَبْدُ الرَّزَّاقِ، عَنْ مَعْمَرٍ، ح. وَحَدَّثَنَا عَبْدُ اللهِ بْنُ عَبْدِ الرَّحْمَنِ الدَّارِمِيُّ، أَخْبَرَنَا يَحْيَى بْنُ حَسَّانَ، حَدَّثَنَا مُعَاوِيَةُ: كُلُّهُمْ عَنْ يَحْيَى بْنِ أَبِي كَثِيرٍ، بِمِثْلِ مَعْنَى حَدِيثِ هِشَامٍ وَإِسْنَادِهِ .

وَاتَّفَقَ لَفْظُ حَدِيثِ هِشَامٍ وَشَيْبَانَ وَمُعَاوِيَةَ بْنِ سَلاَّمٍ فِي هَذَا الْحَدِيثِ.

[3056–65]. (Dar al-Salam 3305) Abu Bakr ibn Abi Shaybah narrated:[iii] ʿAbdullāh ibn Idrīs narrated; from Ibn Jurayj [H]. Isḥāq ibn Ibrāhīm and Muhammad ibn Rāfiʿ narrated; all from ʿAbd al-Razzāq (Ibn Rāfiʿ's text); ʿAbd al-Razzāq narrated; Ibn Jurayj reported; he said: I heard Ibn Abi Mulaykah say: Dhakwān, ʿĀ'ishah's *mawlā* said: I heard ʿĀ'ishah say: **'I asked God's Messenger about a [virgin] girl whose family want to give her in marriage: should her consent be requested?' God's**

Messenger (peace be upon him) said to her: ‘Yes, she must be consulted’. ʿĀ’ishah said: ‘I said to him: “But she is too shy”.’ God’s Messenger said: ‘That is her consent, if she remains silent’.

حَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا عَبْدُ اللهِ بْنُ إِدْرِيسَ، عَنِ ابْنِ جُرَيْجٍ، ح. وَحَدَّثَنَا إِسْحَاقُ بْنُ إِبْرَاهِيمَ، وَمُحَمَّدُ بْنُ رَافِعٍ، جَمِيعًا عَنْ عَبْدِ الرَّزَّاقِ (وَاللَّفْظُ لِابْنِ رَافِعٍ). حَدَّثَنَا عَبْدُ الرَّزَّاقِ، أَخْبَرَنَا ابْنُ جُرَيْجٍ، قَالَ سَمِعْتُ ابْنَ أَبِي مُلَيْكَةَ يَقُولُ: قَالَ ذَكْوَانُ مَوْلَى عَائِشَةَ: سَمِعْتُ عَائِشَةَ تَقُولُ: سَأَلْتُ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ عَنِ الْجَارِيَةِ يُنْكِحُهَا أَهْلُهَا: أَتُسْتَأْمَرُ أَمْ لا؟ فَقَالَ لَهَا رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «نَعَمْ، تُسْتَأْمَرُ». فَقَالَتْ عَائِشَةُ: فَقُلْتُ لَهُ فَإِنَّهَا تَسْتَحْيِي . فَقَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «فَذَلِكَ إِذْنُهَا، إِذَا هِيَ سَكَتَتْ» .

[3057–66]. (Dar al-Salam 3306) Saʿīd ibn Manṣūr and Qutaybah ibn Saʿīd narrated:[iv] both said: Mālik narrated [H]. Also, Yaḥyā ibn Yaḥyā narrated (his text); he said: I said to Mālik: **‘Did ʿAbdullāh ibn al-Faḍl narrate to you from Nāfiʿ ibn Jubayr; from Ibn ʿAbbās; that the Prophet (peace be upon him) said: “A mature woman has more right regarding herself than her guardian. A virgin’s consent must be sought regarding herself, and her silence expresses her consent”? He said: “Yes”.’**

حَدَّثَنَا سَعِيدُ بْنُ مَنْصُورٍ، وَقُتَيْبَةُ بْنُ سَعِيدٍ، قَالا: حَدَّثَنَا مَالِكٌ، ح. وَحَدَّثَنَا يَحْيَى بْنُ يَحْيَى (وَاللَّفْظُ لَهُ) قَالَ: قُلْتُ لِـمَالِكٍ: حَدَّثَكَ عَبْدُ اللهِ بْنُ الْفَضْلِ، عَنْ نَافِعِ بْنِ جُبَيْرٍ، عَنِ ابْنِ عَبَّاسٍ، أَنَّ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ

وَسَلَّمَ قَالَ: «الأَيِّمُ أَحَقُّ بِنَفْسِهَا مِنْ وَلِيِّهَا، وَالْبِكْرُ تُسْتَأْذَنُ فِي نَفْسِهَا وَإِذْنُهَا صُمَاتُهَا»؟ قَالَ: نَعَمْ.

[3058–67]. (Dar al-Salam 3307) Qutaybah ibn Saʿīd narrated: Sufyān narrated; from Ziyā ibn Saʿd; from ʿAbdullāh ibn al-Faḍl; he heard Nāfiʿ ibn Jubayr reporting from Ibn ʿAbbās; that **‘The Prophet (peace be upon him) said: “A previously married woman has more right regarding herself than her guardian. A virgin’s consent must be sought. Her silence is her consent”.’**

وَحَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ، حَدَّثَنَا سُفْيَانُ، عَنْ زِيَادِ بْنِ سَعْدٍ، عَنْ عَبْدِ اللهِ بْنِ الْفَضْلِ، سَمِعَ نَافِعَ بْنَ جُبَيْرٍ يُخْبِرُ عَنِ ابْنِ عَبَّاسٍ، أَنَّ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: «الثَّيِّبُ أَحَقُّ بِنَفْسِهَا مِنْ وَلِيِّهَا، وَالْبِكْرُ تُسْتَأْمَرُ وَإِذْنُهَا سُكُوتُهَا».

[3059–68]. (Dar al-Salam 3308) Ibn Abi ʿUmar narrated: Sufyān narrated; with this chain of transmission, and he said: **‘A previously married woman has more right regarding herself than her guardian. A virgin’s father must ask her consent regarding herself, and her consent is expressed by remaining silent’.** He might have said: **‘Her silence is her approval’.**

وَحَدَّثَنَا ابْنُ أَبِي عُمَرَ، حَدَّثَنَا سُفْيَانُ، بِهَذَا الإِسْنَادِ، وَقَالَ: «الثَّيِّبُ أَحَقُّ بِنَفْسِهَا مِنْ وَلِيِّهَا، وَالْبِكْرُ يَسْتَأْذِنُهَا أَبُوهَا فِي نَفْسِهَا، وَإِذْنُهَا صُمَاتُهَا» . وَرُبَّمَا قَالَ: «وَصَمْتُهَا إِقْرَارُهَا».

Text Explanation

The first hadith, No. 3055, quotes the Prophet as saying: ‘No mature woman may be given in marriage until she has given her instructions, and no virgin woman may be given in marriage until she has given permission’. They asked: ‘Messenger of God, how does she give permission?’ He said: ‘By remaining silent’. Other hadiths in this chapter say: ‘A mature woman has more right regarding herself than her guardian. A virgin’s consent must be sought regarding herself, and her silence expresses her consent’. Scholars said the word *ayyim*, used in the hadith and translated here as ‘mature woman’, refers to a previously married woman, as explained in another hadith, but the word also has other meanings.

Qadi ʿIyāḍ said: Scholars hold different views on the intended meaning of the word *ayyim*, yet linguists agree that it refers to a woman without a husband, whether young or old, virgin or previously married. This is stated by Ibrāhīm al-Ḥarbī, Ismāʿīl al-Qāḍī and others. Scholars further disagree on its meaning in the present context. Scholars of both Hijaz and Fiqh say that it refers to a previously married woman. Their evidence is that the other hadith specifically states this, and also it is contrasted with a ‘virgin’. Moreover, it is mostly used in reference to a woman who was previously married. Scholars of Kufah and Zufar, who was a prominent Ḥanafī scholar, said that the word is used in the hadith in its linguistic sense, which is a woman without a husband. Therefore, every woman, whether virgin or previously married, who has attained puberty has a greater right than that of her guardian regarding herself. Therefore, if she acts for herself in a marriage contract, the contract is correct and valid. The same view is expressed by al-Shaʿbī and al-Zuhrī. They add that the presence of the woman’s guardian is not essential for the validity of the marriage contract, but it makes it perfect. Imam al-Awzāʿī and the two leading Ḥanafī scholars, Abu Yūsuf and Muhammad ibn al-Ḥasan said that the validity of the contract is subject to the approval of the woman’s guardian.

Qadi ʿIyāḍ said that scholars also differ in their understanding of the Prophet's statement that 'a woman has more right than her guardian': Does she have more right to give permission, or to do so and act for herself in the marriage contract? The majority of scholars say that it is only the permission, but these scholars maintain that it applies to the permission and the contract.

The Prophet said that a woman 'has more right regarding herself'. This may mean that her right is greater in all things, including the contract, as Abu Ḥanīfah and Dāwūd said. On the other hand, it may mean that she has more right to express agreement. In other words, she is not married unless she has verbally stated her consent, which is different from the case of a virgin whose consent is expressed by remaining silent. However, an authentic hadith says: 'No marriage contract may be made without a guardian'. Other hadiths also confirm that the presence of the woman's guardian is a condition. Therefore, the second alternative is upheld.

It should be noted that the phrase 'has more right' indicates sharing. This means that she has rights regarding her own marriage and her guardian has rights, but her rights are firmer and take precedence. Therefore, if he wishes to marry her to someone of compatible status and she refuses, she cannot be forced to accept. By contrast, if she wants to get married and her guardian objects, he is forced to accept. If he persists in refusing, the judge takes over and acts for her in her marriage. This confirms that her right is stronger and weightier than that of her guardian.

In hadith No. 3058, the Prophet says: 'A virgin's consent must be sought'. Scholars have different interpretations of this statement. Al-Shāfiʿī, Ibn Abi Laylā, Ahmad, Isḥāq and others have said that this is an order to obtain the consent of a virgin girl before her marriage is contracted. However, if her guardian is her father or grandfather, seeking her consent is desirable. If such a guardian gives her in marriage without first obtaining her consent, her marriage is valid because her father and grandfather are keen to do well by her. If the guardian is some other relative, obtaining her

consent is a duty, and the marriage is invalid without it. Imam al-Awzāʿī, Abu Ḥanīfah and other Kufi scholars said that obtaining her consent is a duty in the case of any virgin who is above the age of puberty.

The Prophet (peace be upon him) adds: ‘Her silence is her consent’. This is a general statement which appears to apply to every virgin woman and every guardian. If she remains silent, this is sufficient in all cases. This is the correct view. Some scholars of our school have said if the guardian is her father or grandfather, obtaining her consent is desirable and her silence is sufficient. If he is someone else, her consent must be spoken because normally a virgin girl is more shy with her father and grandfather. The correct view expressed by the majority of scholars is that her silence is enough whoever her guardian is, as the hadith statement is general, and shyness is a characteristic common to virgin girls.

A previously married woman expresses her agreement to the marriage verbally. There is no difference on this point, whether her guardian is her father or any other relative. She is deemed to be less shy since she has had previous marriage experience. This applies if she has lost her virginity[v] through a proper or invalid marriage, an intercourse that is uncertain as to its legality, or clear adultery. Even if the loss of her virginity occurs through a jump, or the insertion of a finger or through old age, or anal sex, etc. In all such cases, the more correct view is that she is considered like a previously married woman. Some, however, say that she is treated like a virgin woman, but God knows best.

The view of our school and the majority of scholars is that it is not a condition that a virgin should be informed that her silence means her consent. Some Mālikī scholars, however, say that it is a condition, while all Mālikī scholars agree that it is desirable.

Scholars also hold different views on whether the presence of the woman’s guardian is a condition for the validity of her marriage. Mālik and al-Shāfiʿī said that it is a condition, and that no marriage is valid without the guardian. Abu Ḥanīfah said that it is not a condition in the case of a

previously married woman, or a virgin who has attained puberty. He adds that she may contract her own marriage without her guardian's permission. Abu Thawr said that she may contract her marriage by her guardian's permission, but not without it. Dāwūd said that the presence of the guardian is a condition in the marriage of a virgin woman, but not in that of a previously married one. Mālik and al-Shāfiʿī cite in support of their view the well-known hadith: 'No marriage may be contracted without a guardian'. This is a negation of its validity. Dāwūd argues that the hadith Muslim relates in his *Ṣaḥīḥ* makes it clear that there is a difference between a virgin and a previously married woman, and the latter has more right regarding herself, while a virgin's consent is sought. Our scholars argue, in response, that having 'more right' means that she has a share of right in the sense that she may not be forced into a marriage, and that she has more right to choose her husband. Abu Ḥanīfah bases his argument on analogy with commercial and other transactions. In these, a woman has full independence and need not consult her guardian. He applies the hadiths mentioning a guardian to the marriage of slave and young girls. Thus, he limits the applicability of the general statements in these hadiths on the basis of analogy. This procedure is acceptable according to the majority of scholars of legal theory, i.e., *uṣūl al-fiqh*. Abu Thawr gives his argument on the basis of the well-known hadith that quotes the Prophet as saying: 'Any woman who marries without permission by her guardian, her marriage is invalid'. A guardian is required to ensure the suitor's status so that the marriage causes no shame to the woman's family. This is ensured if he gives permission.

Scholars, however, have said that as Dāwūd makes the presence of a guardian a condition in the marriage of a virgin, but not a previously married woman, he contradicts his own school. This is an introduction of a ruling on a controversial question. According to his Ẓāhirī School, this is not permissible. This was never done by anyone else, but God knows best.

i. Related by al-Bukhari, 5136, 6946 and 6968; al-Nasā'ī, 3267.

ii. The narration by Ibrāhīm ibn Mūsā is related by al-Tirmidhī, 1107; Ibn Mājah, 1871. The narration by Zuhayr ibn Ḥarb from Ḥusayn ibn Muhammad is related by al-Bukhari, 6970.

iii. Related by al-Bukhari in a shorter version, 5137, and in similar wording 6971; al-Nasā'ī, 3266.

iv. Related by Abu Dāwūd, 2098, 2099 and 2100; al-Tirmidhī, 1108; al-Nasā'ī, 3260, 3261, 3262, 3263 and 3264; Ibn Mājah, 1870.

v. A woman's 'loss of virginity' is often used as referring to stretching the hymen open, which could happen due to a variety of reasons, including the ones mentioned here.

CHAPTER 10

MARRIAGE OF A YOUNG VIRGIN BY HER FATHER'S ACTION

[3060–69]. (Dar al-Salam 3309) Abu Kurayb Muhammad ibn al-ʿAlā' narrated:[i] Abu Usāmah narrated [H]. Also, Abu Bakr ibn Abi Shaybah narrated: he said: I found in my book from Abu Usāmah; from Hishām; from his father; from ʿĀ'ishah. She said: **'God's Messenger (peace be upon him) married me when I was six years old and consummated the marriage when I was nine'.**

She added: 'We migrated to Madinah where I was sick for a month, then my hair grew again until it was a small bunch. Umm Rūmān came to me when I was playing with my friends on a seesaw. She called out to me, and I went to her, not knowing what she wanted. She took me by the hand and then stopped me at the door. I was gasping hah, hah, until my breathing settled down. She took me inside a home where there were some women from the Anṣār. They said: "We wish you all goodness and blessings. Let it be the best you wish". She gave me up to them, and they washed my head and improved my appearance. I was then surprised to see God's Messenger (peace be upon him) come in mid-morning. They gave me up to him'.

حَدَّثَنَا أَبُو كُرَيْبٍ مُحَمَّدُ بْنُ الْعَلاَءِ، حَدَّثَنَا أَبُو أَسَامَةَ، ح. وَحَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي، شَيْبَةَ قَالَ: وَجَدْتُ فِي كِتَابِي عَنْ أَبِي أُسَامَةَ، عَنْ هِشَامٍ، عَنْ أَبِيهِ، عَنْ عَائِشَةَ قَالَتْ: تَزَوَّجَنِي رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ لِسِتٍّ سِنِينَ، وَبَنَى بِي وَأَنَا بِنْتُ تِسْعِ سِنِينَ .

قَالَتْ: فَقَدِمْنَا الْـمَدِينَةَ، فَوُعِكْتُ شَهْرًا. فَوَفَى شَعْرِي جُمَيْمَةً، فَأَتَتْنِي أُمُّ رُومَانَ وَأَنَا عَلَى أُرْجُوحَةٍ، وَمَعِي صَوَاحِبِي، فَصَرَخَتْ بِي، فَأَتَيْتُهَا، وَمَا أَدْرِي مَا تُرِيدُ بِي. فَأَخَذَتْ بِيَدِي، فَأَوْقَفَتْنِي عَلَى الْبَابِ . فَقُلْتُ: هَهْ هَهْ . حَتَّى ذَهَبَ نَفَسِي. فَأَدْخَلَتْنِي بَيْتًا، فَإِذَا نِسْوَةٌ مِنَ الأَنْصَارِ فَقُلْنَ: عَلَى الْخَيْرِ وَالْبَرَكَةِ، وَعَلَى خَيْرِ طَائِرٍ . فَأَسْلَمَتْنِي إِلَيْهِنَّ فَغَسَلْنَ رَأْسِي وَأَصْلَحْنَنِي. فَلَمْ يَرُعْنِي إِلاَّ وَرَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ ضُحًى، فَأَسْلَمْنَنِي إِلَيْهِ.

[3061–70]. (Dar al-Salam 3310) Yaḥyā ibn Yaḥyā narrated: Abu Muʿāwiyah reported; from Hishām ibn ʿUrwah [H]. Also, Ibn Numayr narrated (his text); ʿAbdah (who is ibn Sulaymān) narrated; from Hishām; from his father; from ʿĀ’ishah. She said: **‘The Prophet (peace be upon him) married me when I was six years old and consummated the marriage when I was nine’.**

وَحَدَّثَنَا يَحْيَى بْنُ يَحْيَى، أَخْبَرَنَا أَبُو مُعَاوِيَةَ، عَنْ هِشَامِ بْنِ عُرْوَةَ، ح. وَحَدَّثَنَا ابْنُ نُمَيْرٍ (وَاللَّفْظُ لَهُ)، حَدَّثَنَا عَبْدَة (هُوَ ابْنُ سُلَيْمَانَ)، عَنْ هِشَامٍ، عَنْ أَبِيهِ، عَنْ عَائِشَةَ قَالَتْ: تَزَوَّجَنِي النَّبِيُّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ وَأَنَا بِنْتُ سِتِّ سِنِينَ، وَبَنَى بِي وَأَنَا بِنْتُ تِسْعِ سِنِينَ.

[3062–71]. (Dar al-Salam 3311) ʿAbd ibn Ḥumayd narrated: ʿAbd al-Razzāq reported; Maʿmar reported; from al-Zuhrī; from ʿUrwah; from ʿĀ’ishah; that **‘The Prophet (peace be upon him) married her when she was seven years of age and she was wedded to him when she was nine, having her dolls with her. He passed away when she was eighteen’.**

وَحَدَّثَنَا عَبْدُ بْنُ حُمَيْدٍ، أَخْبَرَنَا عَبْدُ الرَّزَّاقِ، أَخْبَرَنَا مَعْمَرٌ، عَنِ الزُّهْرِيِّ، عَنْ عُرْوَةَ، عَنْ عَائِشَةَ، أَنَّ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ تَزَوَّجَهَا وَهْىَ بِنْتُ سَبْعِ سِنِينَ، وَزُفَّتْ إِلَيْهِ وَهِيَ بِنْتُ تِسْعِ سِنِينَ، وَلُعَبُهَا مَعَهَا، وَمَاتَ عَنْهَا وَهِيَ بِنْتُ ثَمَانَ عَشْرَةَ.

[3063–72].[ii] Yaḥyā ibn Yaḥyā, Isḥāq ibn Ibrāhīm; Abu Bakr ibn Abi Shaybah and Abu Kurayb narrated:[iii] Abu Muʿāwiyah (Yaḥyā and Isḥāq said: ‘reported’, and the other two said: ‘narrated’); from al-Aʿmash; from Ibrāhīm; from al-Aswad; from ʿĀ’ishah. She said that **‘God’s Messenger (peace be upon him) married her when she was six years old, consummated the marriage when she was nine and passed away when she was eighteen’.**

وَحَدَّثَنَا يَحْيَى بْنُ يَحْيَى، وَإِسْحَاقُ بْنُ إِبْرَاهِيمَ، وَأَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، وَأَبُو كُرَيْبٍ: (قَالَ يَحْيَى وَإِسْحَاقُ أَخْبَرَنَا وَقَالَ الآخَرَانِ حَدَّثَنَا) أَبُو مُعَاوِيَةَ، عَنِ الأَعْمَشِ، عَنْ إِبْرَاهِيمَ، عَنِ الأَسْوَدِ، عَنْ عَائِشَةَ، قَالَتْ تَزَوَّجَهَا رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ وَهْىَ بِنْتُ سِتٍّ، وَبَنَى بِهَا وَهْىَ بِنْتُ تِسْعٍ، وَمَاتَ عَنْهَا وَهْىَ بِنْتُ ثَمَانَ عَشْرَةَ.

Text Explanation

This chapter is based on the hadith narrated by ʿĀ'ishah stating that the Prophet married her when she was six years of age and the wedding took place when she was nine. In hadith No. 3062 she was seven when the marriage contract was made. These hadiths are clear in stating the permissibility of a father arranging his young daughter's marriage without her consent, because she is not qualified to give such consent. According to our school, a grandfather is in the same position as a father. In the previous chapter, we discussed in detail the disagreement among scholars concerning the presence of the woman's guardian and whether it is a condition for the validity of the marriage. Muslims agree that a father may give his young virgin daughter in marriage, relying on this hadith. The question is whether she has the option to annul the marriage when she attains puberty. Mālik, al-Shāfiʿī and all scholars of Hijaz say that she does not have such a right. Scholars of Iraq, on the other hand, said that she has this option of annulment. Guardians other than the girl's father and grandfather may not give a young girl, below the age of puberty, in marriage according to al-Shāfiʿī, al-Thawrī, Mālik, Ibn Abi Laylā, Ahmad, Abu Thawr, Abu ʿUbayd and the majority of scholars. They say that if the guardian gives such a young girl in marriage, the contract is not valid. Al-Awzāʿī, Abu Ḥanīfah and other early scholars say that such a marriage may be done by any guardian, and it is valid, but she has the option to annul it when she attains puberty. The only exception is Abu Yūsuf who said that she has no such option. The great majority of scholars agree that an appointed guardian, who is not a relative of the girl, may not give her in marriage. However, Shurayḥ, ʿUrwah and Ḥammād said that he may do so before her puberty. This is also reported from Mālik by al-Khaṭṭābī, but God knows best.

Al-Shāfiʿī and scholars of his school said that it is preferable that a father or grandfather should not give a young girl in marriage, until she has reached puberty and given her consent, so as not to impose on her a

husband she may not like. This view is not contrary to the hadith mentioning ʿĀ'ishah's marriage because what they mean is that a father should not contract the marriage of his young daughter before she attains puberty unless there is an obvious interest that may be lost if he delays the marriage. A father's duty is to ensure and promote the interests of his children, but God knows best.

A question arises: if a young girl's marriage is contracted, when should the wedding be arranged? In other words, when can the marriage be consummated? If the husband and the guardian agree on something that causes the young girl no harm, it is acceptable. If they disagree, then Ahmad and Abu ʿUbayd said she is compelled to accept if she has completed nine years of age, but not other girls. Mālik, al-Shāfiʿī and Abu Ḥanīfah said that the limit is that she can tolerate intercourse. This is subject to the individual girl and cannot be tied to a particular age. This is the correct view. The hadith concerning ʿĀ'ishah's case does not refer to any age. It neither prevents consummation if the girl can tolerate intercourse before she is nine, nor does it permit it if the girl is nine but cannot tolerate it. Al-Dāwūdī said ʿĀ'ishah was maturing well at the time.

In hadith No. 3062 ʿĀ'ishah mentions her age at her marriage as seven years, while in the other hadiths it is six. These reports can be reconciled by saying that she was six and a few months. In one report, she counted the completed years and in the other she rounded up the few months into a full year, but God knows best.

ʿĀ'ishah reports on the time of her arrival in Madinah. She says: 'I was sick for a month, then my hair grew again until it was a small bunch'. This means that she lost her hair during her illness, and it started to grow after her recovery. The word *jumaymah* which describes her hair means that it was down to her ears. Umm Rūmān, her mother, came to her as she was playing with her friends and took her to a house. 'I was gasping hah, hah, until my breathing settled down'. Apparently, her mother hurried her after she was playing, and that was the reason for her gasping for breath.

Inside the house there were some women from the Anṣār. They said: ‘We wish you all goodness and blessings. Let it be the best you wish’. This shows that it is desirable to supplicate for blessings and goodness to each of the two spouses, as mentioned in the hadith referring to the marriage of ʿAbd al-Raḥmān ibn ʿAwf. The Prophet said to him: ‘May God bless your marriage’.

ʿĀ’ishah adds that the Anṣārī women ‘washed my head and improved my appearance’. This implies the desirability of giving the bride a bath and doing her makeup for her wedding, and that a number of women attend this because this adds to the publicity of the marriage and they have a chance of teaching her the appropriate manners to observe at the wedding.

‘I was then surprised to see God’s Messenger (peace be upon him) come in mid-morning. They gave me up to him’. This was the only surprise she had at the time. The hadith shows that it is perfectly permissible to have the wedding and the consummation of the marriage during the day, as it is during the night. Al-Bukhari adds a special chapter about the preferability of holding the wedding during the day.

Hadith No. 3062 mentions that ʿĀ’ishah had ‘her dolls with her’ at the time of her wedding. This confirms that she was young. *Qadi* ʿIyāḍ said: ‘This confirms the permissibility of having dolls and that girls may play with them. A hadith mentions that the Prophet saw this and did not object to it. Scholars said that such play serves as early training of looking after children and taking care of a family home’. On the other hand, it is possible that dolls are a special case that is excepted from the hadiths that prohibit shaped images, as these are useful. On the other hand, such dolls may be included in the prohibition, but the case of ʿĀ’ishah’s marriage and her dolls took place in the early days after migration to Madinah, before shaped images were forbidden, but God knows best.

Clarification: Marriage of Young Girls

The hadiths in this chapter and the commentary by Imam al-Nawawī as well as the views of other eminent scholars raise the problematic question of the marriage of young girls. From the Islamic point of view, there should be no problem in this because the Prophet made it clear that no woman may be given away in marriage without her consent. Needless to say, a young girl is not qualified to consent or object to a marriage because she does not understand the change that marriage brings into a woman's life. Nevertheless, the question persists due to these hadiths and the views expressed by scholars on their basis. Hence a proper clarification is needed, which should address the following points: 1) Can a marriage of a young girl be made, and who can act on her behalf? 2) If such a marriage is made, when does it become effective? 3) Can this be properly regulated through law? 4) How authentic are these hadiths, and how old was ʿĀ'ishah when the Prophet married her?

From the Islamic point of view, marriage occurs when the marital contract is made and agreed by the two parties. A woman should have a guardian who acts on her behalf, with her consent and instructions. This is a gesture of honour to the woman as it shows her belonging to a family and a clan. The person officiating the marriage must make sure that the woman agrees to the marriage and has instructed her guardian to act for her. If her father is alive, he is the guardian and no one else can act for her, unless he deputizes someone else to take over for a valid reason, such as his being incapacitated or abroad. Although the marriage contract and the wedding can be arranged on the same day, it is the practice in many Muslim communities that they are separate, with the wedding taking place at a later date.

Scholars agree that the marriage of a young girl may be contracted, but only her father, or her grandfather if her father is not alive, can be her guardian. No one else can act on her behalf for any reason. However, they say that her father should keep her in his home and not give her over to her husband until she is able to undertake her duty as a wife. When she attains

this state, he should obtain her consent to the marriage. Scholars of old, like Imam al-Nawawī, did not specify an age when this could be done. They spoke about her ability to have sexual intercourse. This is something that no one can determine for certain. Many contemporary scholars have expressed the view that it means that the girl attains puberty, and many have mentioned 15 years as the time when a girl whose marriage was agreed to early on should be asked to give her consent to the marriage. It is clearly implied that if the girl does not consent to the marriage at this time, the marriage cannot be put into effect.

Needless to say, marriage means the establishment of a life bond between a man and a woman, leading to the formation of a family. As such, it is much more than a relationship for the legitimate satisfaction of sexual desires. Therefore, Shaykh Ahmad al-Tayyib, the Rector of al-Azhar,[iv] said in a television interview that neither a girl nor a boy of 15 are well aware of what marriage really involves, and he thereby considered 18 to be the age when such awareness begins and as such, it is the proper minimum age for marriage. Dar al-Ifta of Egypt, which is the official body that issues religious fatwas, or rulings, has declared that to give an underage girl in marriage is forbidden in Islam. It also declares that the minimum age for marriage is 18.

Can such rulings become laws? Certainly, yes. Islam allows a ruler of a Muslim community to promulgate laws that serve the interests of individuals and the community, provided that they do not contradict an Islamic principle. There is no principle or Islamic text that defines the minimum age for marriage. This means that this is an area that people determine according to normal and societal conditions. Therefore, if a parliament, or a legislative authority, in a Muslim country determines that the minimum age of marriage is 18, or 20, this becomes binding on all Muslims in that community.

The last question pertains to how authentic the hadiths in this chapter are. To start with, we know that Muslim’s anthology includes hadiths that

Muslim considered to be authentic. He was certainly a leader in this area of Islamic scholarship. Scholars in subsequent generations confirmed such authenticity. However, all hadiths in all six authentic anthologies are of the category of *āḥād*, which means ‘singly-reported’. This refers to a hadith transmitted by one or two narrators from one or two others at every stage of the chain of transmission. As such they are considered as ‘probably authentic’, which is a degree below *mutawātir*, which is ‘certainly authentic’. The hadiths in this chapter are of this category.

When we look at their chains of transmission, we find that hadith No. 3060 is narrated by ‘Abu Usāmah; from Hishām; from his father; from ʿĀ’ishah’, while hadith No. 3061 is narrated by Abu Muʿāwiyah from Hishām ibn ʿUrwah in one chain and by ʿAbdah ibn Sulaymān from Hishām from his father; from ʿĀ’ishah in the other chain. So, in all three chains of transmission we have Hishām from his father ʿUrwah from ʿĀ’ishah. ʿUrwah is most reliable in reporting from ʿĀ’ishah, who was his maternal aunt. His son, Hishām, is classified by Hadith masters as ‘reliable’. However, scholars add a question mark about his narrations, saying that ‘He was lax in his narrations in Iraq when he reported from his father from ʿĀ’ishah’. Therefore, we need to look at who reported from Hishām and where they lived.

Abu Usāmah is the narrator from Hishām in the first chain. His name is Ḥammād ibn Usāmah ibn Zayd and he belonged to Kufah. Abu Muʿāwiyah is featured in the second chain as reporting from Hishām. His name is Muhammad ibn Khāzim and he was also from Kufah. The third chain features ʿAbdah ibn Sulaymān who also belonged to Kufah which was one of the major cities of Iraq at the time. This means that these hadiths are in this category where the accuracy of the narrator is considered somewhat questionable.

Finally, can we determine ʿĀ’ishah’s age at the time of her marriage? I wrote a 10-page appendix about this in my book *Muhammad: Man and Prophet*, showing that she must have been considerably older than what is

circulated. Here, I can only give a brief outline of the relevant events and reports confirming this:

1. Prior to her engagement to the Prophet, ʿĀ'ishah was engaged to Jubayr ibn Muṭʿim. When her father heard that the Prophet was willing to marry her, he said he must first terminate that engagement, and he did so.
2. ʿĀ'ishah was suggested to the Prophet as a wife to fill the vacuum in his life left by the death of his first wife Khadījah. The woman making the suggestion recognized his need and proposed an immediate marriage. Could she have suggested a 6-year-old girl to replace a wife who shared his life for 25 years?
3. Al-Bukhari relates a hadith which mentions that ʿĀ'ishah attended the Battle of Uḥud and she tended the wounded. This battle took place two years after her wedding. As the Prophet marched to Uḥud, he inspected the army. He found a number of young boys with the army. He ordered every boy below the age of 15 to return home. These included ʿAbdullāh ibn ʿUmar, Zayd ibn Thābit and Abu Saʿīd al-Khudrī. Could he, then, have allowed an 11-year-old girl to remain with the army?
4. According to the best reports we have, Asmā' bint Abu Bakr, was 10 years older than her sister, ʿĀ'ishah. Asmā' was 100 years when she died in Year 73 AH, a few months after the battle in which her son, ʿAbdullāh, was killed. The times of the battle and her death are known for certain. Had ʿĀ'ishah been alive then, she would have been 90 years old. As she was married in the first year of the Islamic calendar, she would then have been an 18-year-old woman.

Transmission

The second chain of transmission of hadith No. 3060 says: ‘Abu Bakr ibn Abi Shaybah narrated: he said: I found in my book from Abu Usāmah’. This means that Abu Bakr saw the hadith written in his manuscript. He does not state that he heard it from the Abu Usāmah. Such hadiths may be narrated and transmitted according to the right view upheld by the majority of scholars. We note, however, that Muslim does not confine himself to this hadith. In fact, he adds it as an endorsement of the other hadiths he narrates in this chapter.

i. Related by al-Bukhari, 3896.
ii. This hadith is not included in Dar al-Salam’s edition.
iii. Related by al-Nasā’ī, 3258.
iv. Al-Azhar in Cairo is the oldest university of Islamic studies in the world. It was established over a thousand years ago, and its Rector is given the title ‘the Grand Imam’.

CHAPTER 11

THE DESIRABILITY OF MARRIAGE IN *SHAWWĀL*

[3064–73]. (Dar al-Salam 3312) Abu Bakr ibn Abi Shaybah and Zuhayr ibn Ḥarb narrated (Zuhayr's text):[i] both said: Wakīʿ narrated; Sufyān narrated; from Ismāʿīl ibn Umayyah; from ʿAbdullāh ibn ʿUrwah; from ʿUrwah; from ʿĀ'ishah. She said: **'God's Messenger (peace be upon him) married me in Shawwāl and consummated the marriage in Shawwāl. Which of God's Messenger's wives was closer to him than I?** He said: **'ʿĀ'ishah used to prefer arranging the wedding of her women in Shawwāl'**.

حَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، وَزُهَيْرُ بْنُ حَرْبٍ (وَاللَّفْظُ لِزُهَيْرٍ) قَالا: حَدَّثَنَا وَكِيعٌ، حَدَّثَنَا سُفْيَانُ، عَنْ إِسْمَاعِيلَ بْنِ أُمَيَّةَ، عَنْ عَبْدِ اللهِ بْنِ عُرْوَةَ، عَنْ عُرْوَةَ، عَنْ عَائِشَةَ قَالَتْ: تَزَوَّجَنِي رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فِي شَوَّالٍ، وَبَنَى بِي فِي شَوَّالٍ. فَأَيُّ نِسَاءِ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ كَانَ أَحْظَى عِنْدَهُ مِنِّي؟ قَالَ: وَكَانَتْ عَائِشَةُ تَسْتَحِبُّ أَنْ تُدْخِلَ نِسَاءَهَا فِي شَوَّالٍ.

[3065–000]. (Dar al-Salam 3313) Ibn Numayr narrated; my father narrated; Sufyān narrated; with the same chain of transmission: **the**

same text, but did not mention ʿĀ’ishah’s preferred action.

وَحَدَّثَنَاهُ ابْنُ نُمَيْرٍ، حَدَّثَنَا أَبِي، حَدَّثَنَا سُفْيَانُ، بِهَذَا الإِسْنَادِ. وَلَمْ يَذْكُرْ فِعْلَ عَائِشَةَ.

Text Explanation

The hadith shows that it is desirable to make a marriage contract in the month of Shawwāl and also to hold the wedding so that the marriage is completed and consummated in Shawwāl. Our scholars mentioned that this is desirable, relying on this hadith. ʿĀ'ishah's purpose in stating this is to refute the pre-Islamic practice in Arabia when people disliked holding a marriage or making a marriage contract during this month. Unfortunately, this is still held to by some ignorant people. Such a notion is false and goes back to the days of ignorance when people saw bad omens in certain things. Because the word Shawwāl is derived from a root that means lifting, people in pre-Islamic days felt that this was a bad omen. Islam ignores all such false notions.

i. Related by al-Tirmidhī, 1093; al-Nasā'ī, 3236 and 3377; Ibn Mājah, 1990.

CHAPTER 12

TO LOOK AT THE WOMAN ONE WANTS TO MARRY

[3066–74]. (Dar al-Salam 3314) Ibn Abi ʿUmar narrated:[i] Sufyān narrated; from Yazīd ibn Kaysān; from Abu Ḥāzim; from Abu Hurayrah. He said: **‘I was at the Prophet’s when a man came and told him that he married a woman from the Anṣār. The Prophet said to him: “Have you seen her? The man said: “No”. The Prophet said: “Go and look at her. There is something in the eyes of the Anṣār”.’**

حَدَّثَنَا ابْنُ أَبِي عُمَرَ، حَدَّثَنَا سُفْيَانُ، عَنْ يَزِيدَ بْنِ كَيْسَانَ، عَنْ أَبِي حَازِمٍ، عَنْ أَبِي هُرَيْرَةَ قَالَ: كُنْتُ عِنْدَ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، فَأَتَاهُ رَجُلٌ فَأَخْبَرَهُ أَنَّهُ تَزَوَّجَ امْرَأَةً مِنَ الأَنْصَارِ. فَقَالَ لَهُ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «أَنَظَرْتَ إِلَيْهَا»؟ قَالَ لا . قَالَ: «فَاذْهَبْ فَانْظُرْ إِلَيْهَا فَإِنَّ فِي أَعْيُنِ الأَنْصَارِ شَيْئًا».

[3067–75]. (Dar al-Salam 3315) Yaḥyā ibn Maʿīn narrated to me: Marwān ibn Muʿāwiyah al-Fazārī narrated; Yazīd ibn Kaysān narrated; from Abu Ḥāzim; from Abu Hurayrah. He said: **‘A man came to the Prophet (peace be upon him) and said: “I have married a woman from the Anṣār”. The Prophet said to him: “Have you seen her? There is something in the eyes of the**

Anṣār”. The man said: “I have seen her”. The Prophet asked him: “How much dowry have you paid?” The man said: “Four *ūqiyyahs*”. The Prophet said: “Four *ūqiyyahs*! As if you, people, are extracting silver from this mountain side. We do not have anything to give you, but we may send you on an expedition and you may get some gains”. The Prophet then sent an expedition to the ʿAbs tribe, and he sent that man with them’.

وَحَدَّثَنِي يَحْيَى بْنُ مَعِينٍ، حَدَّثَنَا مَرْوَانُ بْنُ مُعَاوِيَةَ الْفَزَارِيُّ، حَدَّثَنَا يَزِيدُ بْنُ كَيْسَانَ، عَنْ أَبِي حَازِمٍ، عَنْ أَبِي هُرَيْرَةَ قَالَ: جَاءَ رَجُلٌ إِلَى النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَقَالَ: إِنِّي تَزَوَّجْتُ امْرَأَةً مِنَ الأَنْصَارِ . فَقَالَ لَهُ النَّبِيُّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «هَلْ نَظَرْتَ إِلَيْهَا؟ فَإِنَّ فِي عُيُونِ الأَنْصَارِ شَيْئًا» . قَالَ: قَدْ نَظَرْتُ إِلَيْهَا . قَالَ: «عَلَى كَمْ تَزَوَّجْتَهَا»؟ قَالَ: عَلَى أَرْبَعِ أَوَاقٍ . فَقَالَ لَهُ النَّبِيُّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «عَلَى أَرْبَعِ أَوَاقٍ! كَأَنَّمَا تَنْحِتُونَ الْفِضَّةَ مِنْ عُرْضِ هَذَا الْجَبَلِ. مَا عِنْدَنَا مَا نُعْطِيكَ، وَلَكِنْ عَسَى أَنْ نَبْعَثَكَ فِي بَعْثٍ تُصِيبُ مِنْهُ» . قَالَ: فَبَعَثَ بَعْثًا إِلَى بَنِي عَبْسٍ بَعَثَ ذَلِكَ الرَّجُلَ فِيهِمْ.

Text Explanation

In these two hadiths the Prophet tells the man who wanted to marry an Anṣārī woman that there is something in the eyes of the Anṣār. It is said that he meant smallness or bluish colour. This shows that such mention is permissible as a piece of advice. The hadith also shows that it is desirable for a man who wants to marry a certain woman to look at her face. This is the view of our school as well as the Māliki, Ḥanbalī and Ḥanafī schools, all Kūfī scholars and the great majority of scholars. *Qadi* ʿIyāḍ mentions that some scholars disapprove of it, but this is wrong and contrary to the clear meaning of this hadith. It is also contrary to the unanimity of the Muslim community that considers looking as permissible, when needed, such as in situations of shopping, giving testimony, etc.

Moreover, what is permissible is to look at the woman's face and hands only because these are not part of what a woman must conceal of her body. The face indicates beauty or otherwise, and the hands indicate the state of the body. This is our view and the view of the majority of scholars. Al-Awzāʿī said that the man may look at the points of flesh. Dāwūd said he may look at all her body. This is clearly wrong and contrary to the sunnah and the unanimous view.

Our Shāfiʿī School, the Mālikī and Ḥanbalī schools as well as the majority of scholars are of the opinion that it is not necessary that the man should obtain the woman's consent. Indeed, he may look at her when she is unaware, and without prior notice. However, Mālik said that he dislikes a man looking at a woman when she is unaware, lest he may see of her what is not permissible. Another report, which is rather weak, suggests that Mālik said that the man should obtain her consent before he looks at her. This is weak because the Prophet permitted such looking generally, without requiring her permission, because most women feel shy to give permission to look at them. Moreover, it is not quite right, as the man may feel disinclined to go ahead with the marriage after looking at her, and she may

then feel hurt. Hence, our scholars say that it is preferable that he looks at her before proposing marriage, so that if he withdraws, no one is hurt. But God knows best. Further, our scholars said that if a man is unable to look at the woman himself, it is recommended that he sends a woman he trusts to look at her and report to him. This should take place before a proposal is made, as we have mentioned.

The Prophet said to the man who told him that he agreed a dowry of four *ūqiyyahs* of silver: ‘As if you people are extracting silver from this mountain side’. This means that you seem to find the silver easy to obtain. This implies discouragement of offering a high dowry, but this depends on the man’s circumstances.

i. Related by al-Nasā’ī, 3246, 3247 and 3234.

CHAPTER 13

THE DOWRY AND OF WHAT SORTS IT MAY BE

[3068–76]. (Dar al-Salam 3316) Qutaybah ibn Saʿīd al-Thaqafī narrated:[i] Yaʿqūb (meaning ibn ʿAbd al-Raḥmān al-Qāriy) narrated; from Abu Ḥāzim; from Sahl ibn Saʿd [H]. Also, Qutaybah narrated; ʿAbd al-ʿAzīz ibn Abi Ḥāzim narrated; from his father, from Sahl ibn Saʿd al-Sāʿidī. He said: **‘A woman came to God’s Messenger (peace be upon him) and said: “Messenger of God, I offer myself freely to you”. The Prophet looked up and down at her, then he lowered his head. When the woman realized that he did not take a decision concerning her, she sat down. One of his companions stood up and said: “Messenger of God, if you have no need for her, marry her to me”. The Prophet asked him: “Do you have something to offer her? The man said: “No, by God”. The Prophet said: “Go to your family and look for something [to offer]”. The man went away and came back and said: “No, by God I could not find anything”. The Prophet said: “Look for even an iron ring”. The man went away again and came back. He said: “Messenger of God, no, by God I could not find even an iron ring, but I have this my lower garment. She may have half of it”. (Sahl said: the man did not have an upper garment.) God’s Messenger said to him: “What**

use is your garment to her? If you wear it, she will have nothing of it, and if she wears it, you can have nothing of it”. The man sat down. When he felt he stayed too long he stood up. God’s Messenger (peace be upon him) saw him departing, and he gave instructions to call him back. When he came, the Prophet asked him: “Which parts of the Qur’an do you have? The man said: “I have this surah and that surah (mentioning what he had learnt). The Prophet asked: “Have you memorized these?” The man said: “Yes”. The Prophet said: “You may go. You have her in return for what you have of the Qur’an”.’

This is Ibn Abi Ḥāzim’s narration, and Yaʿqūb’s narration is largely similar in wording.

حَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ الثَّقَفِيُّ، حَدَّثَنَا يَعْقُوبُ (يَعْنِي ابْنَ عَبْدِ الرَّحْمَنِ الْقَارِيَّ)، عَنْ أَبِي حَازِمٍ، عَنْ سَهْلِ بْنِ سَعْدٍ، ح. وَحَدَّثَنَاهُ قُتَيْبَةُ، حَدَّثَنَا عَبْدُ الْعَزِيزِ بْنُ أَبِي حَازِمٍ، عَنْ أَبِيهِ، عَنْ سَهْلِ بْنِ سَعْدٍ السَّاعِدِيِّ قَالَ: جَاءَتِ امْرَأَةٌ إِلَى رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَقَالَتْ: يَا رَسُولَ اللهِ، جِئْتُ أَهَبُ لَكَ نَفْسِي . فَنَظَرَ إِلَيْهَا رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَصَعَّدَ النَّظَرَ فِيهَا وَصَوَّبَهُ، ثُمَّ طَأْطَأَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ رَأْسَهُ. فَلَـمَّا رَأَتِ الْـمَرْأَةُ أَنَّهُ لَمْ يَقْضِ فِيهَا شَيْئًا جَلَسَتْ. فَقَامَ رَجُلٌ مِنْ أَصْحَابِهِ فَقَالَ يَا رَسُولَ اللهِ، إِنْ لَمْ يَكُنْ لَكَ بِهَا حَاجَةٌ فَزَوِّجْنِيهَا. فَقَالَ: «فَهَلْ عِنْدَكَ مِنْ شَىْءٍ »؟ فَقَالَ: لا وَاللهِ يَا رَسُولَ اللهِ . فَقَالَ: «اذْهَبْ إِلَى أَهْلِكَ، فَانْظُرْ هَلْ تَجِدُ شَيْئًا» . فَذَهَبَ ثُمَّ رَجَعَ فَقَالَ: لا وَاللهِ مَا وَجَدْتُ شَيْئًا . فَقَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «انْظُرْ وَلَوْ خَاتِمًا مِنْ حَدِيدٍ». فَذَهَبَ ثُمَّ رَجَعَ . فَقَالَ: لا وَاللهِ يَا

رَسُولَ اللهِ، وَلاَ خَاتِمًا مِنْ حَدِيدٍ . وَلَكِنْ هَذَا إِزَارِي، (قَالَ سَهْلٌ: مَا لَهُ رِدَاءٌ) فَلَهَا نِصْفُهُ . فَقَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «مَا تَصْنَعُ بِإِزَارِكَ؟ إِنْ لَبِسْتَهُ لَمْ يَكُنْ عَلَيْهَا مِنْهُ شَىْءٌ، وَإِنْ لَبِسَتْهُ لَمْ يَكُنْ عَلَيْكَ مِنْهُ شَيْءٌ». فَجَلَسَ الرَّجُلُ حَتَّى إِذَا طَالَ مَجْلِسُهُ قَامَ، فَرَآهُ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ مُوَلِّيًا، فَأَمَرَ بِهِ فَدُعِيَ. فَلَـمَّا جَاءَ قَالَ: «مَاذَا مَعَكَ مِنَ الْقُرْآنِ»؟ قَالَ: مَعِي سُورَةُ كَذَا وَسُورَةُ كَذَا - عَدَّدَهَا. فَقَالَ: «تَقْرَؤُهُنَّ عَنْ ظَهْرِ قَلْبِكَ»؟ قَالَ نَعَمْ . قَالَ: «اذْهَبْ فَقَدْ مَلَّكْتُكَهَا بِمَا مَعَكَ مِنَ الْقُرْآنِ». هَذَا حَدِيثُ ابْنِ أَبِي حَازِمٍ وَحَدِيثُ يَعْقُوبَ يُقَارِبُهُ فِي اللَّفْظِ.

[3069–77]. (Dar al-Salam 3317) Khalaf ibn Hishām narrated: Ḥammād ibn Zayd narrated [H]. Also, Zuhayr ibn Ḥarb nar-rated; Sufyān ibn ʿUyaynah narrated [H]. And Isḥāq ibn Ibrāhīm narrated; from al-Darāwardī [H]. Further, Abu Bakr ibn Abi Shaybah narrated; Ḥusayn ibn ʿAlī narrated; from Zā’idah; all of them from Abu Ḥāzim; from Sahl ibn Saʿd: **the same text, but some add what others might have missed, but in Zā’idah’s narration the Prophet says to the man: ‘You may go. I give her to you in marriage. Teach her some of the Qur’an’.**

وَحَدَّثَنَاهُ خَلَفُ بْنُ هِشَامٍ، حَدَّثَنَا حَمَّادُ بْنُ زَيْدٍ، ح. وَحَدَّثَنِيهِ زُهَيْرُ بْنُ حَرْبٍ، حَدَّثَنَا سُفْيَانُ بْنُ عُيَيْنَةَ، ح. وَحَدَّثَنَا إِسْحَاقُ بْنُ إِبْرَاهِيمَ، عَنِ الدَّرَاوَرْدِيِّ، ح. وَحَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا حُسَيْنُ بْنُ عَلِيٍّ، عَنْ زَائِدَةَ، كُلُّهُمْ عَنْ أَبِي حَازِمٍ، عَنْ سَهْلِ بْنِ سَعْدٍ، بِهَذَا الْحَدِيثِ، يَزِيدُ

بَعْضُهُمْ عَلَى بَعْضٍ. غَيْرَ أَنَّ فِي حَدِيثِ زَائِدَةَ قَالَ: «انْطَلِقْ فَقَدْ زَوَّجْتُكَهَا، فَعَلِّمْهَا مِنَ الْقُرْآنِ».

[3070–78]. (Dar al-Salam 3318) Isḥāq ibn Ibrāhīm narrated:[ii] ʿAbd al-ʿAzīz ibn Muhammad reported; Yazīd ibn ʿAbdullāh ibn Usāmah ibn al-Hād narrated [H]. Also, Muhammad ibn Abi ʿUmar al-Makkī narrated (his text); ʿAbd al-ʿAzīz narrated; from Yazīd; from Muhammad ibn Ibrāhīm; from Abu Salamah ibn ʿAbd al-Raḥmān; that he said: **‘I asked ʿĀ’ishah, the Prophet’s wife, how much did the Prophet pay in dowry. She said: “His dowry to his wives was twelve *ūqiyyahs* and one *nashsh*. Do you know how much a *nashsh* is?” I said: “No.” She said: “Half an *ūqiyyah*. This makes up five hundred dirhams. This was the dowry God’s Messenger (peace be upon him) paid to his wives”.’**

حَدَّثَنَا إِسْحَاقُ بْنُ إِبْرَاهِيمَ، أَخْبَرَنَا عَبْدُ الْعَزِيزِ بْنُ مُحَمَّدٍ، حَدَّثَنِي يَزِيدُ بْنُ عَبْدِ اللهِ بْنِ أُسَامَةَ بْنِ الْهَادِ ح. وَحَدَّثَنِي مُحَمَّدُ بْنُ أَبِي عُمَرَ الْـمَكِّيُّ (وَاللَّفْظُ لَهُ)، حَدَّثَنَا عَبْدُ الْعَزِيزِ عَنْ يَزِيد، عَنْ مُحَمَّدِ بْنِ إِبْرَاهِيمَ، عَنْ أَبِي سَلَمَةَ بْنِ عَبْدِ الرَّحْمَنِ، أَنَّهُ قَالَ: سَأَلْتُ عَائِشَةَ، زَوْجَ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: كَمْ كَانَ صَدَاقُ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ؟ قَالَتْ: كَانَ صَدَاقُهُ لأَزْوَاجِهِ ثِنْتَىْ عَشْرَةَ أُوقِيَّةً وَنَشًّا . قَالَتْ: أَتَدْرِي مَا النَّشُّ؟ قَالَ: قُلْتُ لا . قَالَتْ: نِصْفُ أُوقِيَّةٍ، فَتِلْكَ خَمْسُمِائَةِ دِرْهَمٍ. فَهَذَا صَدَاقُ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ لأَزْوَاجِهِ.

[3071–79]. (Dar al-Salam 3319) Yaḥyā ibn Yaḥyā al-Tamīmī, Abu al-Rabīʿ Sulaymān ibn Dāwūd al-ʿAtakī and Qutaybah ibn Saʿīd

narrated (Yaḥyā's text):[iii] Ḥammād ibn Zayd (Yaḥyā said: 'reported' and the others said: 'narrated'); from Thābit; from Anas ibn Mālik; that **'The Prophet saw ʿAbd al-Raḥmān ibn ʿAwf with traces of saffron on him. He asked: "What is this?" He said: "Messenger of God, I married a woman for [a dowry of] the weight of a fruit stone in gold". He said: "May God bless it for you. Hold a wedding feast, even if only with one sheep".'**

حَدَّثَنَا يَحْيَى بْنُ يَحْيَى التَّمِيمِيُّ، وَأَبُو الرَّبِيعِ سُلَيْمَانُ بْنُ دَاوُدَ الْعَتَكِيُّ، وَقُتَيْبَةُ بْنُ سَعِيدٍ (وَاللَّفْظُ لِيَحْيَى). (قَالَ يَحْيَى أَخْبَرَنَا وَقَالَ الآخَرَانِ حَدَّثَنَا) حَمَّادُ بْنُ زَيْدٍ، عَنْ ثَابِتٍ، عَنْ أَنَسِ بْنِ مَالِكٍ، أَنَّ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ رَأَى عَلَى عَبْدِ الرَّحْمَنِ بْنِ عَوْفٍ أَثَرَ صُفْرَةٍ، فَقَالَ: «مَا هَذَا»؟ قَالَ: يَا رَسُولَ اللهِ، إِنِّي تَزَوَّجْتُ امْرَأَةً عَلَى وَزْنِ نَوَاةٍ مِنْ ذَهَبٍ . قَالَ:«فَبَارَكَ اللهُ لَكَ. أَوْلِمْ وَلَوْ بِشَاة».

[3072–80]. (Dar al-Salam 3320) Muhammad ibn ʿUbayd al-Ghubarī narrated: Abu ʿAwānah narrated; from Qatādah; from Anas ibn Mālik; that **'ʿAbd al-Raḥmān ibn ʿAwf got married during the Prophet's lifetime, giving a dowry equal to the weight of a fruit stone in gold. God's Messenger (peace be upon him) said to him: "Hold a wedding feast, even if only with one sheep".'**

وَحَدَّثَنَا مُحَمَّدُ بْنُ عُبَيْدٍ الْغُبَرِيُّ، حَدَّثَنَا أَبُو عَوَانَةَ، عَنْ قَتَادَةَ، عَنْ أَنَسِ بْنِ مَالِكٍ، أَنَّ عَبْدَ الرَّحْمَنِ بْنَ عَوْفٍ، تَزَوَّجَ عَلَى عَهْدِ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ عَلَى وَزْنِ نَوَاةٍ مِنْ ذَهَبٍ . فَقَالَ لَهُ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «أَوْلِمْ وَلَوْ بِشَاةٍ».

[3073–81]. (Dar al-Salam 3321) Isḥāq ibn Ibrāhīm narrated:[iv] Wakīʿ reported; Shuʿbah narrated; from Qatādah and Ḥumayd; from Anas that **‘ʿAbd al-Raḥmān ibn ʿAwf got married to a woman giving her a dowry equal to the weight of a fruit stone in gold. The Prophet (peace be upon him) said to him: “Hold a wedding feast, even if only with one sheep”.’**

وَحَدَّثَنَا إِسْحَاقُ بْنُ إِبْرَاهِيمَ، أَخْبَرَنَا وَكِيعٌ، حَدَّثَنَا شُعْبَةُ، عَنْ قَتَادَةَ وَحُمَيْدٍ، عَنْ أَنَسٍ، أَنَّ عَبْدَ الرَّحْمَنِ بْنَ عَوْفٍ تَزَوَّجَ امْرَأَةً عَلَى وَزْنِ نَوَاةٍ مِنْ ذَهَبٍ، وَأَنَّ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ لَهُ: «أَوْلِمْ وَلَوْ بِشَاةٍ».

[3074–000]. (Dar al-Salam 3322) Muhammad ibn al-Muthannā narrated: Abu Dāwūd narrated [H]. Muhammad ibn Rāfiʿ and Ḥārūn ibn ʿAbdullāh narrated; both said: Wahb ibn Jarīr narrated [H]. And Ahmad ibn Khirāsh narrated; Shabābah narrated; all from Shuʿbah; from Ḥumayd, with the same chain of transmission: **the same text, except that in Wahb’s narration ʿAbd al-Raḥmān said: ‘I married a woman’.**

وَحَدَّثَنَاهُ مُحَمَّدُ بْنُ الْـمُثَنَّى، حَدَّثَنَا أَبُو دَاوُدَ، ح. وَحَدَّثَنَا مُحَمَّدُ بْنُ رَافِعٍ، وَهَارُونُ بْنُ عَبْدِ اللهِ قَالا: حَدَّثَنَا وَهْبُ بْنُ جَرِيرٍ، ح. وَحَدَّثَنَا أَحْمَدُ بْنُ خِرَاشٍ، حَدَّثَنَا شَبَابَةُ، كُلُّهُمْ عَنْ شُعْبَةَ، عَنْ حُمَيْدٍ، بِهَذَا الإِسْنَادِ. غَيْرَ أَنَّ فِي حَدِيثِ وَهْبٍ قَالَ: قَالَ عَبْدُ الرَّحْمَنِ تَزَوَّجْتُ امْرَأَةً.

[3075–82]. (Dar al-Salam 3323) Isḥāq ibn Ibrāhīm and Muhammad ibn Qudāmah narrated: they said: al-Naḍr ibn Shumayl

reported; Shuʿbah narrated; ʿAbd al-ʿAzīz ibn Ṣuhayb narrated; he said: I heard Anas say: ʿAbd al-Raḥmān ibn ʿAwf said: **‘God’s Messenger (peace be upon him) saw me reflecting my wedding pleasure. I said: “I married a woman from the Anṣār”. He asked: “How much dowry did you give her?” I said: “a fruit stone”.’**

In Isḥāq’s narration, he adds: **‘of gold’.**

وَحَدَّثَنَا إِسْحَاقُ بْنُ إِبْرَاهِيمَ، وَمُحَمَّدُ بْنُ قُدَامَةَ، قَالا: أَخْبَرَنَا النَّضْرُ بْنُ شُمَيْلٍ، حَدَّثَنَا شُعْبَةُ، حَدَّثَنَا عَبْدُ الْعَزِيزِ بْنُ صُهَيْبٍ، قَالَ سَمِعْتُ أَنَسًا يَقُولُ: قَالَ عَبْدُ الرَّحْمَنِ بْنُ عَوْفٍ: رَآنِي رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ وَعَلَىَّ بَشَاشَةُ الْعُرْسِ. فَقُلْتُ: تَزَوَّجْتُ امْرَأَةً مِنَ الأَنْصَارِ . فَقَالَ: «كَمْ أَصْدَقْتَهَا»؟ فَقُلْتُ نَوَاةً . وَفِي حَدِيثِ إِسْحَاقَ: مِنْ ذَهَبٍ.

[3076–83]. (Dar al-Salam 3324) Ibn al-Muthannā narrated: Abu Dāwūd narrated; Shuʿbah narrated; from Abu Ḥamzah (Shuʿbah said: his name is ʿAbd al-Raḥmān ibn Abu ʿAbdullāh); from Anas ibn Mālik; that **‘ʿAbd al-Raḥmān married a woman for [a dowry of] the weight of a fruit stone in gold’.**

وَحَدَّثَنَا ابْنُ الْـمُثَنَّى، حَدَّثَنَا أَبُو دَاوُدَ، حَدَّثَنَا شُعْبَةُ، عَنْ أَبِي حَمْزَةَ، (قَالَ شُعْبَةُ: وَاسْمُهُ عَبْدُ الرَّحْمَنِ بْنُ أَبِي عَبْدِ اللهِ)، عَنْ أَنَسِ بْنِ مَالِكٍ، أَنَّ عَبْدَ الرَّحْمَنِ تَزَوَّجَ امْرَأَةً عَلَى وَزْنِ نَوَاةٍ مِنْ ذَهَبٍ.

Muhammad ibn Rāfiʿ narrated it to me: Wahb narrated; Shuʿbah reported; with the same chain of transmission, except that he said that one of ʿAbd al-Raḥmān’s offspring said: **‘of gold’**.

وَحَدَّثَنِيهِ مُحَمَّدُ بْنُ رَافِعٍ، حَدَّثَنَا وَهْبٌ، أَخْبَرَنَا شُعْبَةُ، بِهَذَا الإِسْنَادِ. غَيْرَ أَنَّهُ قَالَ: فَقَالَ رَجُلٌ مِنْ وَلَدِ عَبْدِ الرَّحْمَنِ بْنِ عَوْفٍ مِنْ ذَهَبٍ.

Text Explanation

Hadith No. 3068 mentions the woman who said to the Prophet that she gives herself up to him, and the Prophet remained silent. The Arabic word used for ‘offer myself’ is *wahabt*, which means ‘give a gift’. In other words, she made a gift of herself to him. This is evidence that a woman could gift the Prophet her marriage, as God says in the Qur’an: ‘And any believing woman who offers herself freely to the Prophet and whom the Prophet might be willing to wed: [this latter] applies to you alone and not to other believers’. (33: 50) This verse and hadith are two clear evidences confirming this. If a woman offered herself to the Prophet freely, and he married her without a dowry, then this was lawful to him. No dowry would be subsequently due from him by reason of the consummation of the marriage, or death, or any other reason. This ruling applied to him alone, not to any other believer whose marriage incurs the duty of a dowry, which is either fixed or equal to the dowries of the woman’s peers.

So, was the Prophet’s marriage complete by the wording of such an offer? Our scholars hold two views. The first is that it was, as indicated by the apparent meaning of this verse and this hadith. The other view is that it was not. It would only occur when the marriage word was stated, in the same way as the marriage of other people. No marriage took place except by the pronouncement of marrying. This is the view of our Shāfiʿī School, and there is no disagreement concerning it. Abu Ḥanīfah, however, says that the marriage of any person is solemnized by any wording that indicates permanent possession. Our view is shared by al-Thawrī, Abu Thawr and many Mālikī scholars and others. There is also one report quoting Mālik. The other report mentions that Mālik considered that marriage is confirmed by words like offer, gift, *ṣadaqah*, or sale, if marriage is meant by any of these words, whether a dowry is mentioned or not. It is not valid if words like pawn, lease or trust are used. Some Mālikī scholars also consider the

marriage to be valid if the wording used means ‘make lawful’ or ‘make permissible’. This is mentioned by *Qadi ʿIyāḍ*.

The hadith mentions that when the woman offered herself to the Prophet, he ‘looked up and down at her, then he lowered his head’. This provides evidence that it is permissible for a man who wants to marry a woman to look carefully at her. The hadith also makes clear that it is perfectly acceptable for a woman to suggest to a virtuous man that he marry her. It is also desirable for a person who has been requested something and he feels unable to give to remain silent so as to imply his apology. He should not give a blunt refusal that embarrasses the other. Only if the one making the request could not understand without a clear response should the requested person state his refusal.

Al-Khaṭṭābī said: ‘The hadith shows that it is permissible to make a marriage contract without asking the woman whether she is in a waiting period, as this appears to be the case. However, judges normally check this as a precaution’. Al-Shāfiʿī said that a judge may not marry a woman[v] who comes seeking to be married until two witnesses of known integrity testify that she does not have a guardian and that she is neither married nor observing a waiting period. Some of our Shāfiʿī scholars say that this is an essential condition, but the more correct view of our scholars is that this is desirable as a precaution.

The Prophet tells the man to find something to offer as a dowry, ‘even if an iron ring’. This means that it is recommended that the marriage is not contracted without a dowry because an agreed dowry prevents dispute and benefits the woman. Suppose that the couple are divorced before the consummation of the marriage, half the dowry is due to the woman. If the dowry is not stated, then only a *mutʿah* becomes due, and this is a gift according to the man’s means. If the marriage is contracted without a dowry, it is valid. God says: ‘You will incur no sin if you divorce women before having touched them or settled a dowry for them’. (2: 236) This is a clear statement of the validity of marriage and divorce without an agreed

dowry. A dowry then becomes due as a duty to be paid to the wife. The question is when does it become due to her: at the time the contract is made or when the marriage is consummated? There is a well-known difference of opinion on this point. Both views have been stated by al-Shāfiʿī and the more correct one is that it falls due upon the consummation of the marriage, as indicated in the apparent meaning of the above-quoted verse.

Hadith No. 3068 makes it clear that the dowry could be much or little of what people normally own, provided that the two partners agree to it. This is indicated by the reference to an ‘iron ring’, which is of very little value. This is the view of al-Shāfiʿī and the great majority of scholars of the earlier and later generations. It is expressed by Rabīʿah, Abu al-Zinād, Ibn Abi Dhi’b, Yaḥyā ibn Saʿīd, al-Layth ibn Saʿd, al-Thawrī, al-Awzāʿī, Muslim ibn Khālid al-Zanjī, Ibn Abi Laylā, Dāwūd, scholars who combine the Fiqh and Hadith specialisations and Ibn Wahb of the Mālikī School. *Qadi* ʿIyāḍ said: ‘It is the view shared by all scholars of Hijaz, Basrah, Kufah, Syria and other areas confirming that whatever the two partners agree as a dowry is fine, no matter how little or much, including a whip, a pair of sandals, an iron ring, etc’. Mālik, however, said that the minimum amount is one quarter of one dīnār, which is equal to the minimum amount to incur the punishment of theft, if stolen. *Qadi* ʿIyāḍ said that this is one of the issues on which Mālik takes a different view of his own. Abu Ḥanīfah and his disciples said that the minimum is ten dirhams, while Ibn Shibrimah said that the minimum is five dirhams, and these figures are equal to the minimum amount which, if stolen, require the enforcement of the mandatory punishment for theft. Al-Nukhaʿī disliked a man marrying without paying a minimum dowry of forty dirhams, yet on one occasion he said ten dirhams. All these views that are not in agreement with the view of the majority are contrary to the Sunnah, and their argument is rendered invalid by the present clear hadith. The hadith also includes that it is permissible to have an iron ring. Early scholars held different views on this point, and our Shāfiʿī scholars express two views on it, the more correct one

being that it is not discouraged. There is a hadith that discourages it, but this hadith is poor in authenticity. I explain the point in *Sharḥ al-Muhadhdhab*. The hadith further shows the desirability of early payment of the agreed dowry.

The man said to the Prophet: ‘No, by God, not even an iron ring’. This shows that it is permissible to state an oath without being asked, even if there is no need. Our scholars said that to swear without a need is discouraged, while this man needed to swear so as to confirm what he said. The hadith further shows that it is permissible for a poor man who is in straitened circumstances to get married.

In the same hadith, the man offers half of his lower garment. The Prophet says to him that the woman has no use for it: ‘If you wear it, she has nothing of it, and if she wears it, you will have nothing of it’. This indicates that the chief of a community should look after his community, care for their interests and show them what is more appropriate for them. It also indicates that a man may wear a garment belonging to his wife, if she accepts or if he feels that she most probably accepts.

This hadith also makes it clear that it is permissible for the dowry to be in the form of teaching the Qur’an. It also makes it permissible to hire someone to teach the Qur’an. Both are considered permissible by al-Shāfiʿī and this is agreed by ʿAṭā’, al-Ḥasan ibn Ṣāliḥ, Mālik, Isḥāq and others. Some scholars including al-Zuhrī and Abu Ḥanīfah disapprove. Their argument is refuted by this hadith and the authentic hadith quoting the Prophet: ‘The best that you may take wages for is God’s Book’. *Qadi* ʿIyāḍ reports that all scholars other than Abu Ḥanīfah approve of hiring a person to teach the Qur’an.

In hadith No. 3070, ʿĀ’ishah mentions that the Prophet (peace be upon him) gave his wives a dowry amounting to twelve *ūqiyyahs* and one *nashsh*, making this equal to five hundred dirhams, as this is based on the Hijazi *ūqiyyah*, which is equal to forty dirhams. Our scholars take this hadith as indicating that it is desirable that the dowry is this amount for a person who

can afford it. It may be said that the dowry given to Umm Ḥabībah,[vi] the Prophet's wife, was four thousand dirhams and four hundred dīnārs. This amount was given to her by Negus, the king of Abyssinia, in honour of the Prophet. It was not stated in the contract by the Prophet nor paid by the Prophet, but God knows best.

Hadith No. 3071 says: 'The Prophet saw ʿAbd al-Raḥmān ibn ʿAwf with traces of saffron on him. He asked: "What is this?"' A ruler or a chief of a community is encouraged to enquire about his companions and ask about changes in their circumstances. The Prophet noted that there were traces of saffron on ʿAbd al-Raḥmān, which means that some of the perfume used by his bride had left some traces on him. He did not intend to apply saffron, as it is discouraged for men, like any perfume or makeup that is normally worn by women. The Prophet prohibited men from putting on an appearance similar to that of women. *Qadi* ʿIyāḍ mentions that some said that a relaxation is given to a bridegroom. A hadith mentioned by Abu ʿUbayd says that the restriction is relaxed for a young man in the early days of his wedding. It is also said that these traces of saffron might have been little, deserving no censure. It is further said that in the early days of Islam anyone who got married wore a coloured robe indicating his delight at being married. Yet this is not a common practice. It is further said that the traces of saffron might have been on his clothing, not on his body. According to Mālik and his disciples, it is permissible for men to wear clothes dyed with saffron. Mālik attributes this view to the scholars of Madinah, and it is the view of Ibn ʿUmar and others. Al-Shāfiʿī and Abu Ḥanīfah said that it is not permissible for men.

ʿAbd al-Raḥmān ibn ʿAwf answers the Prophet saying: 'Messenger of God, I married a woman for [a dowry of] the weight of a fruit stone in gold'. *Qadi* ʿIyāḍ said: 'According to al-Khaṭṭābī, a fruit-stone refers to a measure known to them, and they explain it as five dirhams of gold. This is how most scholars understand it'. However, Ahmad ibn Ḥanbal said that it is three and one-third dirhams. It is also said that what is meant here is a

date fruit stone, which means its weight in gold. The correct view is the first one. Some Mālikī scholars said that a fruit stone equals one-quarter of a dīnār according to the people of Madinah, and that the apparent meaning of Abu ʿUbayd's words is that he paid five dirhams. He added: 'No gold was involved, but they amounted to five dirhams, and these were called a fruit stone, or *nawāh*, as the forty dirhams are called *ūqiyyah*.'

The Prophet said to ʿAbd al-Raḥmān: 'May God bless it for you'. This confirms that it is recommended to say some supplication to a person who has just got married, and to say to him or her 'May God bless it for you', or some similar words.

The Prophet instructs ʿAbd al-Raḥmān: 'Hold a wedding feast, even if only with one sheep'. Scholars hold different views on whether the wedding feast is a duty or a sunnah. The more correct view according to our Shāfiʿī scholars is that it is a desirable sunnah. They understand the Prophet's order to ʿAbd al-Raḥmān as a recommendation. Mālik and other scholars share the same view, but Dāwūd and others say that it is a duty. Scholars also differ on its timing. *Qadi* ʿIyāḍ reports that Mālik and others consider it recommended after the consummation of the marriage, but some Mālikī scholars say that it is better after the marriage contract is made. Ibn Ḥabīb al-Mālikī says that it is desirable after the contract and after consummation.

The Prophet said to ʿAbd al-Raḥmān regarding the wedding dinner: 'even if only with one sheep'. This makes it desirable that a person who has the means should not go for less than one sheep. *Qadi* ʿIyāḍ reports that scholars are unanimous that there is no minimum limit for it. Whatever he gives in this dinner, the requirement is fulfilled. Muslim mentions later that on the occasion of the Prophet's marriage with Ṣafiyyah, the wedding feast was vegetarian, while on his marriage with Zaynab, the Prophet 'gave us our fill of bread and meat'. All this is permissible and sufficient for a wedding dinner, but it is desirable that it should be according to the bridegroom's means. *Qadi* ʿIyāḍ said that early scholars differed about repeating it for more than two days, with some disliking it and others liking

it. He added that Mālik's disciples said that it is preferable for a well-off person to hold it over a week.

i. Related by al-Bukhari, 5087 and 5871.
ii. Related by Abu Dāwūd, 2105; al-Nasā'ī, 3347; Ibn Mājah, 1886.
iii. Related by al-Bukhari, 5155 and 6386; al-Tirmidhī, 1094; al-Nasā'ī, 3372; Ibn Mājah, 1907.
iv. Related by al-Bukhari, 5148.
v. This means that the judge acts as the woman's guardian performing her marriage to a man she is willing to marry.
vi. Umm Habībah Ramlah bint Abu Sufyān was one of the Muslim migrants to Abyssinia. Her father was the leading adversary of the Prophet, and he raised armies to fight the Prophet and the Muslims. When her husband died, she was in a precarious situation in Abyssinia. The Prophet sent to Negus to arrange her marriage to him which he did in a very honourable way.

CHAPTER 14

TO SET A SLAVE WOMAN FREE AND MARRY HER[i]

[3077–84]. (Dar al-Salam 3325) Zuhayr ibn Ḥarb narrated:[ii] Ismāʿīl (meaning ibn ʿUlayyah) narrated; from ʿAbd al-ʿAzīz; from Anas; that **‘God’s Messenger (peace be upon him) went on an expedition to Khaybar. We prayed the Fajr Prayer near it when it was still dark. The Prophet then rode and Abu Ṭalḥah rode, and I was riding behind Abu Ṭalḥah. The Prophet went fast through a narrow passage in Khaybar. My knee would touch the Prophet’s thigh. His lower garment lifted and exposed the Prophet’s thigh, and I saw the whiteness of his thigh. When he went into the village, he said: “God is supreme. Khaybar is ruined. When we strike in the midst of some people, terrible will be the morning of those who have been warned”. He repeated this three times. The people of Khaybar had already gone out to attend to their work. They said: “[Here is] Muhammad, by God”.’**

ʿAbd al-ʿAzīz said: some of our colleagues said: Muhammad and the army.

He said: ‘We took it over by force, and the captives were assembled. Diḥyah came to the Prophet and said: “Messenger of God, give me a woman from the captives”. The Prophet said:

“Go and pick one for yourself”. He took Ṣafiyyah bint Ḥuyay. A man came to the Prophet and said: “Messenger of God, you gave Ṣafiyyah bint Ḥuyay to Diḥyah. She suits none other than you”. The Prophet said: “Call him with her”. He brought her, and when the Prophet saw her, he said to him: “Take a different woman captive”. The Prophet set her free and married her’.

Thābit asked him: ‘Abu Ḥamzah, what did he [i.e., the Prophet] give her as dowry?’ He said: ‘He gave her herself. He set her free and married her’. At one point on his return journey, Umm Sulaym prepared her and brought her to him during the night. In the morning, the Prophet was a newly-wedded bridegroom. He said: ‘Whoever has something [of food], let him bring it’. He spread a hide. People brought dried milk, dates and clarified butter. They cooked *ḥays*, and this was God’s Messenger’s wedding dinner.

حَدَّثَنِي زُهَيْرُ بْنُ حَرْبٍ، حَدَّثَنَا إِسْمَاعِيل (يَعْنِي ابْنَ عُلَيَّةَ)، - عَنْ عَبْدِ الْعَزِيزِ، عَنْ أَنَسٍ، أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ غَزَا خَيْبَرَ. قَالَ: فَصَلَّيْنَا عِنْدَهَا صَلاَةَ الْغَدَاةِ بِغَلَسٍ. فَرَكِبَ نَبِيُّ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، وَرَكِبَ أَبُو طَلْحَةَ وَأَنَا رَدِيفُ أَبِي طَلْحَةَ. فَأَجْرَى نَبِيُّ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فِي زُقَاقِ خَيْبَرَ، وَإِنَّ رُكْبَتِي لَتَمَسُّ فَخِذَ نَبِيِّ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ. وَانْحَسَرَ الإِزَارُ عَنْ فَخِذِ نَبِيِّ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، فَإِنِّي لأَرَى بَيَاضَ فَخِذِ نَبِيِّ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ. فَلَـمَّا دَخَلَ الْقَرْيَةَ قَالَ: «اللهُ أَكْبَرُ. خَرِبَتْ خَيْبَرُ، إِنَّا إِذَا نَزَلْنَا بِسَاحَةِ قَوْمٍ

فَسَاءَ صَبَاحُ الْـمُنْذَرِينَ» . قَالَهَا ثَلاَثَ مَرَّاتٍ. قَالَ وَقَدْ خَرَجَ الْقَوْمُ إِلَى أَعْمَالِهِمْ فَقَالُوا مُحَمَّدٌ وَاللَّه .

قَـالَ عَبْـدُ الْعَزِيـزِ: وَقَـالَ بَعْضُ أَصْـحَابِنَـا مُحَمَّدٌ وَالْـخَمِيـسُ .

قَالَ: وَأَصَبْنَاهَا عَنْوَةً، وَجُمِعَ السَّبْيُ، فَجَاءَهُ دِحْيَةُ فَقَالَ يَا رَسُولَ اللهِ أَعْطِنِي جَارِيَةً مِنَ السَّبيِ . فَقَالَ: «اذْهَبْ فَخُذْ جَارِيَةً ». فَأَخَذَ صَفِيَّةَ بِنْتَ حُيَيٍّ. فَجَاءَ رَجُلٌ إِلَى نَبِيِّ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَقَالَ: يَا نَبِيَّ اللهِ أَعْطَيْتَ دِحْيَةَ صَفِيَّةَ بِنْتَ حُيَيٍّ، سَيِّدِ قُرَيْظَةَ وَالنَّضِيرِ، مَا تَصْلُحُ إِلاَّ لَكَ . قَالَ: «ادْعُوهُ بِهَا ». قَالَ: فَجَاءَ بِهَا، فَلَـمَّا نَظَرَ إِلَيْهَا النَّبِيُّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: «خُذْ جَارِيَةً مِنَ السَّبْيِ غَيْرَهَا ». قَالَ: وَأَعْتَقَهَا، وَتَزَوَّجَهَا .

فَقَالَ لَهُ ثَابِتٌ: يَا أَبَا حَمْزَةَ مَا أَصْدَقَهَا؟ قَالَ: نَفْسَهَا. أَعْتَقَهَا وَتَزَوَّجَهَا. حَتَّى إِذَا كَانَ بِالطَّرِيقِ، جَهَّزَتْهَا لَهُ أُمُّ سُلَيْمٍ، فَأَهْدَتْهَا لَهُ مِنَ اللَّيْلِ. فَأَصْبَحَ النَّبِيُّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ عَرُوسًا. فَقَالَ: «مَنْ كَانَ عِنْدَهُ شَىْءٌ فَلْيَجِئْ بِهِ». قَالَ وَبَسَطَ نِطَعًا. قَالَ: فَجَعَلَ الرَّجُلُ يَجِيءُ بِالأَقِطِ، وَجَعَلَ الرَّجُلُ يَجِيءُ بِالتَّمْرِ، وَجَعَلَ الرَّجُلُ يَجِيءُ بِالسَّمْنِ فَحَاسُوا حَيْسًا. فَكَانَتْ وَلِيمَةَ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ.

[3078–85]. (Dar al-Salam 3326) Abu al-Rabīʿ al-Zahrānī narrated to me:[iii] Ḥammād (meaning ibn Zayd) narrated; from Thābit and ʿAbd al-ʿAzīz ibn Ṣuhayb; from Anas [H]. Also, Qutaybah ibn Saʿīd narrated; Ḥammād (meaning ibn Zayd) narrated; from Thābit and Shuʿayb ibn Ḥabḥāb; from Anas [H]. And Qutaybah narrated; Abu ʿAwānah narrated; from Qatādah and ʿAbd al-ʿAzīz; from

Anas [H]. Further, Muhammad ibn ʿUbayd al-Ghubarī narrated; Abu ʿAwānah narrated; from Abu ʿUthmān; from Anas [H]. Also, Zuhayr ibn Ḥarb narrated to me; Muʿādh ibn Hishām narrated; my father narrated to me; from Shuʿayb ibn al-Ḥabḥāb; from Anas [H]. And Muhammad ibn Rāfiʿ narrated to me; Yaḥyā ibn Adam, ʿUmar ibn Saʿd and ʿAbd al-Razzāq narrated; both from Sufyān; from Yūnus ibn ʿUbayd; from Shuʿayb ibn al-Ḥabḥāb; from Anas all of them; from the Prophet (peace be upon him) that **‘he set Ṣafiyyah free and made her freedom her dowry’.**

In Muʿādh’s narration from his father: **‘The Prophet married Ṣafiyyah making her dowry that he set her free’.**

وَحَدَّثَنِي أَبُو الرَّبِيعِ الزَّهْرَانِيُّ، حَدَّثَنَا حَمَّادٌ (يَعْنِي ابْنَ زَيْدٍ)، عَنْ ثَابِتٍ وَعَبْدِ الْعَزِيزِ بْنِ صُهَيْبٍ، عَنْ أَنَسٍ، ح. وَحَدَّثَنَاهُ قُتَيْبَةُ بْنُ سَعِيدٍ، حَدَّثَنَا حَمَّادٌ (يَعْنِي ابْنَ زَيْدٍ)، عَنْ ثَابِتٍ وَشُعَيْبِ بْنِ حَبْحَابٍ عَنْ أَنَسٍ، ح. وَحَدَّثَنَا قُتَيْبَةُ، حَدَّثَنَا أَبُو عَوَانَةَ، عَنْ قَتَادَةَ وَعَبْدِ الْعَزِيزِ، عَنْ أَنَسٍ، ح. وَحَدَّثَنَا مُحَمَّدُ بْنُ عُبَيْدٍ الْغُبَرِيُّ، حَدَّثَنَا أَبُو عَوَانَةَ، عَنْ أَبِي عُثْمَانَ، عَنْ أَنَسٍ، ح. وَحَدَّثَنِي زُهَيْرُ بْنُ حَرْبٍ، حَدَّثَنَا مُعَاذُ بْنُ هِشَامٍ، حَدَّثَنِي أَبِي، عَنْ شُعَيْبِ بْنِ الْحَبْحَابِ، عَنْ أَنَسٍ، ح. وَحَدَّثَنِي مُحَمَّدُ بْنُ رَافِعٍ، حَدَّثَنَا يَحْيَى بْنُ آدَمَ، وَعُمَرُ بْنُ سَعْدٍ، وَعَبْدُ الرَّزَّاقِ جَمِيعًا عَنْ سُفْيَانَ، عَنْ يُونُسَ بْنِ عُبَيْدٍ، عَنْ شُعَيْبِ بْنِ الْحَبْحَابِ، عَنْ أَنَسٍ، كُلُّهُمْ عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: أَنَّهُ أَعْتَقَ صَفِيَّةَ، وَجَعَلَ عِتْقَهَا صَدَاقَهَا.

وَفِي حَدِيثِ مُعَاذٍ عَنْ أَبِيهِ تَزَوَّجَ صَفِيَّةَ، وَأَصْدَقَهَا عِتْقَهَا.

[3079–86]. (Dar al-Salam 3327) Yaḥyā ibn Yaḥyā narrated:[iv] Khālid ibn ʿAbdullāh reported; from Muṭarrif; from ʿĀmir; from Abu Burdah; from Abu Mūsā. He said: **‘God’s Messenger (peace be upon him) said about a person who sets his slave woman free and marries her: “He earns two rewards”.’**

وَحَدَّثَنَا يَحْيَى بْنُ يَحْيَى، أَخْبَرَنَا خَالِدُ بْنُ عَبْدِ اللهِ، عَنْ مُطَرِّفٍ، عَنْ عَامِرٍ، عَنْ أَبِي بُرْدَةَ، عَنْ أَبِي مُوسَى قَالَ: قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فِي الَّذِي يُعْتِقُ جَارِيَتَهُ ثُمَّ يَتَزَوَّجُهَا:«لَهُ أَجْرَانِ».

[3080–87]. (Dar al-Salam 3328) Abu Bakr ibn Abi Shaybah narrated: ʿAffān narrated; Ḥammād ibn Salamah narrated; Thābit narrated; from Anas. He said: **‘I was riding behind Abu Ṭalḥah on the Day of Khaybar, and my foot would touch God’s Messenger’s foot. We reached them when the sun had risen. They had brought out their cattle and came out with their axes, baskets and mattocks. They said: “Muhammad and the army”. God’s Messenger (peace be upon him) said: “Khaybar is ruined. When we strike in the midst of some people, terrible will be the morning of those who have been warned”. God, Mighty and Exalted, defeated them. A pretty maid was in Diḥyah’s share [of war gains]. The Prophet bought her for seven heads. He then handed her to Umm Sulaym to prepare her and get her ready. (He said: I think he said) And so that she observes her waiting period in her home. She was Ṣafiyyah bint Ḥuyay. God’s Messenger made her wedding feast dates, dried milk and clarified butter. The earth was dug a little and hides**

were brought and placed in the dug areas. Then the [food made of the] milk and butter was brought, and people ate their fill.

People said: “We are unsure, has the Prophet married her or has he taken her as a slave woman”. Then [some] people said: “If he screens her, she is his wife, and if he does not, she is a slave”. When he was about to ride, he screened her. She sat at the back end of the camel, and they realized that he had married her.

When they were close to Madinah, God’s Messenger sped up and we sped. The she-camel, al-ʿAḍbā’, tripped and God’s Messenger fell down and she also fell down. He stood up and covered her. Women were looking from the tops [of their homes] and they said: “May God keep away the Jewess”.’

He said: I said: ‘Abu Ḥamzah, did God’s Messenger (peace be upon him) fall down?’ He said: ‘Yes, by God. He fell down’.

حَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا عَفَّانُ، حَدَّثَنَا حَمَّادُ بْنُ سَلَمَةَ، حَدَّثَنَا ثَابِتٌ، عَنْ أَنَسٍ، قَالَ: كُنْتُ رِدْفَ أَبِي طَلْحَةَ يَوْمَ خَيْبَرَ، وَقَدَمِي تَمَسُّ قَدَمَ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ. قَالَ: فَأَتَيْنَاهُمْ حِينَ بَزَغَتِ الشَّمْسُ، وَقَدْ أَخْرَجُوا مَوَاشِيَهُمَ، وَخَرَجُوا بِفُئُوسِهِمْ وَمَكَاتِلِهِمْ وَمُرُورِهِمْ. فَقَالُوا: مُحَمَّدٌ وَالْخَمِيسُ. قَالَ: وَقَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «خَرِبَتْ خَيْبَرُ. إِنَّا إِذَا نَزَلْنَا بِسَاحَةِ قَوْمٍ فَسَاءَ صَبَاحُ الْـمُنْذَرِينَ». قَالَ: وَهَزَمَهُمُ اللهُ عَزَّ وَجَلَّ. وَوَقَعَتْ فِي سَهْمِ دَحْيَةَ جَارِيَةٌ جَمِيلَةٌ فَاشْتَرَاهَا رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ بِسَبْعَةِ أَرْؤُسٍ، ثُمَّ دَفَعَهَا إِلَى أُمِّ سُلَيْمٍ تُصَنِّعُهَا لَهُ وَتُهَيِّئُهَا. قَالَ: وَأَحْسِبُهُ قَالَ: وَتَعْتَدُّ فِي

بَيْتِهَا. وَهِيَ صَفِيَّةُ بِنْتُ حُيَيّ. قَالَ: وَجَعَلَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ وَلِيمَتَهَا التَّمْرَ وَالأَقِطَ وَالسَّمْنَ. فُحِصَتِ الأَرْضُ أَفَاحِيصَ، وَجِيءَ بِالأَنْطَاعِ، فَوُضِعَتْ فِيهَا. وَجِيءَ بِالأَقِطِ وَالسَّمْنِ فَشَبِعَ النَّاسُ.

قَالَ: وَقَالَ النَّاسُ لاَ نَدْرِي أَتَزَوَّجَهَا أَمِ اتَّخَذَهَا أُمَّ وَلَدٍ . قَالُوا:، إِنْ حَجَبَهَا فَهْىَ امْرَأَتُهُ وَإِنْ لَمْ يَحْجُبْهَا فَهْىَ أُمُّ وَلَدٍ. فَلَـمَّا أَرَادَ أَنْ يَرْكَبَ حَجَبَهَا، فَقَعَدَتْ عَلَى عَجُزِ الْبَعِيرِ، فَعَرَفُوا أَنَّهُ قَدْ تَزَوَّجَهَأ.

فَلَـمَّا دَنَوْا مِنَ الْـمَدِينَةِ دَفَعَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ وَدَفَعْنَا. قَالَ: فَعَثَرَتِ النَّاقَةُ الْعَضْبَاءُ، وَنَدَرَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ وَنَدَرَتْ، فَقَامَ فَسَتَرَهَا. وَقَدْ أَشْرَفَتِ النِّسَاءُ فَقُلْنَ: أَبْعَدَ اللهُ الْيَهُودِيَّةَ .

قَالَ قُلْتُ: يَا أَبَا حَمْزَةَ، أَوَقَعَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ؟ قَالَ: إِي وَاللهِ لَقَدْ وَقَعَ.

[3081–78][R].[v] Anas said: **‘I was present at Zaynab’s wedding feast when [the Prophet] gave people bread and meat and they ate to their hearts’ content. When it was over, he stood up and I followed him. Two men remained behind engaged in their conversation. They did not depart. [The Prophet] called on his wives, greeting each one of them, saying: “Peace be to you, how are you people of this house?” They would say: “We are well. How have you found your wife?” He would say: “She is fine”. When he passed by them all, he went back, and I went with him. When he reached the door, he found the two men still engaged in their conversation. When they saw him coming back, they stood up and went away. By God, I am not sure**

whether it was I who told him or it was revealed to him that they had left. He went back and I went with him. When he placed his foot inside the door, he put down the screen between himself and me. God then revealed this verse: “Believers! Do not enter the Prophet’s homes, unless you are given leave”. (33: 53)’

قَالَ أَنَسٌ: وَشَهِدْتُ وَلِيمَةَ زَيْنَبَ، فَأَشْبَعَ النَّاسَ خُبْزًا وَلَحْمًا. وَكَانَ يَبْعَثُنِي فَأَدْعُو النَّاسَ، فَلَـمَّا فَرَغَ قَامَ وَتَبِعْتُهُ. فَتَخَلَّفَ رَجُلاَنِ اسْتَأْنَسَ بِهِمَا الْحَدِيثُ، لَمْ يَخْرُجَا. فَجَعَلَ يَمُرُّ عَلَى نِسَائِهِ، فَيُسَلِّمُ عَلَى كُلِّ وَاحِدَةٍ مِنْهُنَّ: «سَلاَمٌ عَلَيْكُمْ. كَيْفَ أَنْتُمْ يَا أَهْلَ الْبَيْتِ »؟ فَيَقُولُونَ: بِخَيْرٍ يَا رَسُولَ اللهِ. كَيْفَ وَجَدْتَ أَهْلَكَ؟ فَيَقُولُ: «بِخَيْرٍ». فَلَـمَّا فَرَغَ، رَجَعَ وَرَجَعْتُ مَعَهُ. فَلَـمَّا بَلَغَ الْبَابَ إِذَا هُوَ بِالرَّجُلَيْنِ قَدِ اسْتَأْنَسَ بِهِمَا الْحَدِيثُ. فَلَـمَّا رَأَيَاهُ قَدْ رَجَعَ قَامَا فَخَرَجَا. فَوَاللهِ مَا أَدْرِي، أَنَا أَخْبَرْتُهُ أَمْ أُنْزِلَ عَلَيْهِ الْوَحْيُ بِأَنَّهُمَا قَدْ خَرَجَا. فَرَجَعَ وَرَجَعْتُ مَعَهُ، فَلَـمَّا وَضَعَ رِجْلَهُ فِي أُسْكُفَّةِ الْبَابِ، أَرْخَى الْحِجَابَ بَيْنِي وَبَيْنَهُ. وَأَنْزَلَ اللهُ تَعَالَى هَذِهِ الآيَةَ: «لا تَدْخُلُوا بُيُوتَ النَّبِيِّ إِلاَّ أَنْ يُؤْذَنَ لَكُمْ».

[3082–88]. (Dar al-Salam 3329) Abu Bakr ibn Abi Shaybah narrated: Shabābah narrated; Sulaymān narrated; from Thābit; from Anas [H]. Also, ʿAbdullāh ibn Hāshim ibn Ḥayyān narrated it to me (his text); Bahz narrated; Sulaymān ibn al-Mughīrah narrated; from Thābit; Anas narrated. He said: **‘Ṣafiyyah was part of Diḥyah’s share of war gains. People spoke highly of her when they were with God’s Messenger (peace be upon him), and they said: “We have not seen her like among the captives”. He called**

for Diḥyah and gave him whatever he wished to release her. He then gave her to my mother and said: “Get her ready”. God’s Messenger then left Khaybar. When it was well behind him, he dismounted. He then erected a small tent for her. In the morning, God’s Messenger said: “Will anyone who has some extra food bring it to us”. People brought what they had surplus dates and dried grains, and they made the dish known as *ḥays*. They ate of that *ḥays* and they drank from close by ponds filled with rainwater. Anas said: “That was God’s Messenger wedding feast for Ṣafiyyah”.

We went ahead and when we saw the walls of Madinah, we were so delighted and drove our mounts fast. The Prophet drove his mount fast, having Ṣafiyyah behind him. His mount tripped and both he and she fell down. No one looked at him or her, until God’s Messenger (peace be upon him) rose and covered her. We went to him, and he said: “No harm done”. We entered Madinah. The maids of his wives came out to look at her, feeling pleased at her fall’.

وَحَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا شَبَابَةُ، حَدَّثَنَا سُلَيْمَانُ، عَنْ ثَابِتٍ، عَنْ أَنَسٍ، ح. وَحَدَّثَنِي بِهِ عَبْدُ اللهِ بْنُ هَاشِمِ بْنِ حَيَّانَ (وَاللَّفْظُ لَهُ)، حَدَّثَنَا بَهْزٌ، حَدَّثَنَا سُلَيْمَانُ بْنُ الْـمُغِيرَةِ، عَنْ ثَابِتٍ، حَدَّثَنَا أَنَسٌ قَالَ: صَارَتْ صَفِيَّةُ لِدَحْيَةَ فِي مَقْسَمِهِ، وَجَعَلُوا يَمْدَحُونَهَا عِنْدَ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، وَيَقُولُونَ مَا رَأَيْنَا فِي السَّبْيِ مِثْلَهَا. قَالَ: فَبَعَثَ إِلَى دِحْيَةَ فَأَعْطَاهُ بِهَا مَا أَرَادَ، ثُمَّ دَفَعَهَا إِلَى أُمِّي فَقَالَ: «أَصْلِحِيهَا». قَالَ: ثُمَّ خَرَجَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ مِنْ خَيْبَرَ، حَتَّى إِذَا

جَعَلَهَا فِي ظَهْرِهِ نَزَلَ. ثُمَّ ضَرَبَ عَلَيْهَا الْقُبَّةَ. فَلَـمَّا أَصْبَحَ قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «مَنْ كَانَ عِنْدَهُ فَضْلُ زَادٍ فَلْيَأْتِنَا بِهِ ». قَالَ فَجَعَلَ الرَّجُلُ يَجِيءُ بِفَضْلِ التَّمْرِ، وَفَضْلِ السَّوِيقِ. حَتَّى جَعَلُوا مِنْ ذَلِكَ سَوَادًا حَيْسًا، فَجَعَلُوا يَأْكُلُونَ مِنْ ذَلِكَ الْحَيْسِ، وَيَشْرَبُونَ مِنْ حِيَاضٍ إِلَى جَنْبِهِمْ مِنْ مَاءِ السَّمَاءِ. قَالَ: فَقَالَ أَنَسٌ: فَكَانَتْ تِلْكَ وَلِيمَةَ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ عَلَيْهَا.

قَالَ: فَانْطَلَقْنَا، حَتَّى إِذَا رَأَيْنَا جُدُرَ الْـمَدِينَةِ هَشِشْنَا إِلَيْهَا، فَرَفَعْنَا مَطِيَّنَا وَرَفَعَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ مَطِيَّتَهُ. قَالَ: وَصَفِيَّةُ خَلْفَهُ، قَدْ أَرْدَفَهَا رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ. قَالَ: فَعَثَرَتْ مَطِيَّةُ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَصُرِعَ وَصُرِعَتْ. قَالَ: فَلَيْسَ أَحَدٌ مِنَ النَّاسِ يَنْظُرُ إِلَيْهِ، وَلاَ إِلَيْهَا. حَتَّى قَامَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَسَتَرَهَا. قَالَ: فَأَتَيْنَاهُ، فَقَالَ: «لَمْ نُضَرَّ ». قَالَ: فَدَخَلْنَا الْـمَدِينَةَ، فَخَرَجَ جَوَارِي نِسَائِهِ يَتَرَاءَيْنَهَا، وَيَشْمَتْنَ بِصَرْعَتِهَا.

Text Explanation

In hadith No. 3077, Anas the narrator says: ‘I was riding behind Abu Ṭalḥah’. This makes it clear that for more than one person to be on the same mount is permissible if the mount is able to take the load. Several hadiths mention this. Anas then mentions that ‘the Prophet went fast through a narrow passage in Khaybar’. This is again permissible, and it does not detract from a person’s status, particularly if it is needed for a useful purpose, such as fighting, training the mount or increasing one’s skills.

Anas adds: ‘My knee would touch the Prophet’s thigh. His lower garment lifted and exposed the Prophet’s thigh, and I saw the whiteness of his thigh’. This statement is used by Mālikī scholars and others as evidence in support of their view that the thigh is not included in the part of a man’s body that may not be exposed. The view of our Shāfiʿī School is that it must not be exposed. Our scholars understand this hadith as meaning that the Prophet’s lower garment was lifted unintentionally because of the crowding and the speed. Anas looked at him suddenly, not deliberately. Likewise, his knee touched the Prophet’s thigh because of the crowding, without intention. He did not say that he did it deliberately, nor that he lifted the garment, but the garment was lifted by itself.

The hadith mentions that when the Prophet went into the village, he said *Allah-u akbar* i.e., ‘God is supreme’. This confirms that glorifying God at the time of battle is desirable. It is consistent with the Qur’anic verse: ‘Believers, when you meet an enemy force, be firm, and remember God often, so that you may be successful’. (8: 45) This gives us the understanding that a glorification repeated three times meets the requirement indicated by the word ‘often’.

The Prophet also said: ‘Khaybar is ruined’. Scholars understand this in two ways. The first is that it is a supplication that God may cause it to be ruined, while the second is that it is a statement informing the believers that it will be ruined for unbelievers and taken over by the Muslims.

The hadith mentions: ‘We took it over by force’. Some of the forts of Khaybar were taken over peacefully. We will discuss this in full in its place, God willing.

Anas, the narrator of this hadith, continues: ‘Diḥyah came to the Prophet and said: “Messenger of God, give me a woman from the captives”. The Prophet said: “Go and pick one for yourself”. He took Ṣafiyyah bint Ḥuyay’. According to correct reports, this was her name before she fell captive. Some suggest that her original name was Zaynab, but she was called Ṣafiyyah [which means ‘chosen’] after the Prophet chose her.

The hadith mentions that a man came to the Prophet and said: ‘Messenger of God, you gave Ṣafiyyah bint Ḥuyay to Diḥyah. She suits none other than you’. The Prophet said: ‘Call him with her’. He brought her, and when the Prophet saw her, he said to him: ‘Take a different woman captive’. Al-Māzarī and other scholars said that what happened with Diḥyah was one of two things. The first is that the Prophet permitted him to take an ordinary woman from those taken captive, not the best one. Then when the Prophet realized that he took the one who belonged to their best family, having the highest status in her community and the prettiest one, the Prophet told him to return her because he did not permit him that. The Prophet might have felt that it was wrong to leave it to Diḥyah because that would have given him a privileged status in the army and might lower her status as she was the daughter of the Jewish chief. Moreover, she might behave arrogantly to Diḥyah because of her status, and this might lead to problems. By taking her himself, the Prophet put an end to all these likely problems. He compensated Diḥyah well for her.

In hadith No. 3080, Ṣafiyyah ‘was in Diḥyah’s share [of war gains]. The Prophet bought her for seven heads’. This may mean that she was in his share when the Prophet gave him permission to take a woman from among the captives. This understanding is necessary so that it is consistent with the other hadiths. That the Prophet ‘bought her’ means that he gave him seven

captives in return for her, so that Diḥyah would be well satisfied. There was no actual purchase deal. Thus, all the reports are reconciled.

Giving this to Diḥyah is understood to be a gift. For scholars who say that giving such gifts from the original war gains is permissible, the case involves no problem. For those who say that it must be from [the Prophet's own share], which is one-fifth of the one-fifth share that goes to the state,[vi] giving a gift from this share is permissible before or after it is assigned. If it is before assignment, it must be calculated when the assignment is done. This is what is correct.

Qadi ʿIyāḍ said something of this, then added:

> My own view is that Ṣafiyyah was part of *fay'*, which is gains taken without fighting. She was the wife of Kinānah ibn al-Rabīʿ. He and his family belonged to the Abu al-Ḥaqīq clan who made a peaceful agreement with the Prophet. He stipulated a condition that they would not withhold any secret treasure from him. He asked them about the treasure which belonged to Ḥuyay ibn Akhṭab, and they withheld the information, telling the Prophet that 'it was consumed by expenses'. He then found it in their place. Thus, their agreement was violated, and he imposed slavery on them. This is mentioned by Abu ʿUbayd and other scholars. Therefore, Ṣafiyyah is *fay'*, and *fay'* is not subject to be divided into five-fifths. It is subject to the ruler's discretion.

What *Qadi* ʿIyāḍ says here is an application of the view of his Mālikī School, which considers that *fay'* is not subject to division. The view of our school is that it is divided in the same way as other war gains, but God knows best.

Hadith No. 3077 mentions: 'Thābit asked him: "Abu Ḥamzah, what did he [i.e., the Prophet] give her as dowry?" He said: "He gave her herself. He set her free and married her".' This confirms that it is recommended that a person sets a slave woman free and marries her. This earns him double reward, as mentioned in hadith No. 3079.

Anas replies to the question about Ṣafiyyah's dowry: 'He gave her herself'. Scholars differ concerning its meaning. The view chosen by the best versed scholars is that the Prophet set her free as a gesture of good will, without any condition or return. He subsequently married her, by her free will and without a dowry. This is one of the special privileges he had, i.e., that he could marry without giving a dowry, either immediate or deferred. Other Muslims do not have this privilege. Some of our scholars say that he offered her a condition to set her free and marry him. She accepted and she had to honour her commitment. Other scholars of our school said he set her free and married her for the dowry of her value, which was unknown. Neither this nor the explanation before it are permissible to anyone else. Both are special privileges for him.

Scholars differ regarding the situation of a person who sets his slave free on condition that she will marry him, making her freedom her dowry. The majority say that she is not bound to marry him, and this condition is invalid. Mālik, al-Shāfiʿī, Abu Ḥanīfah, Muhammad ibn al-Ḥasan and Zufar subscribe to this view. Al-Shāfiʿī said: 'If he sets her free on this condition and she agrees, she is free and she is not bound to marry him. She owes him her value because he did not accept setting her free for nothing. If she accepts and he marries her for a dowry agreed between them, she owes him her value and he owes her the agreed dowry, whether much or little. If he marries her for a dowry equal to her value, then if her value is known to both of them the dowry is fine and she owes him no value and he owes her no dowry.' If her value is unknown, then our scholars have two views: the first view is that the dowry is valid as though it is known because such a contract involves some relaxation and generosity. The more correct view, which is shared by the majority of our Shāfiʿī scholars, is that the dowry is invalid. The marriage is valid, and he owes her a dowry equal to women who are her peers.

However, Saʿīd ibn al-Musayyib, al-Ḥasan, al-Nakhaʿī, al-Zuhrī, al-Thawrī, al-Awzāʿī, Abu Yūsuf, Ahmad and Isḥāq said that it is permissible

that he sets her free on condition that she marries him. Thus, her freedom is her dowry, and she is bound to honour that. The dowry is valid on the basis of the apparent meaning of the wording of this hadith. Other scholars understood it as we have outlined.

The same hadith, No. 3077, mentions: ‘At one point on his return journey, Umm Sulaym prepared her and brought her to him during the night. In the morning, the Prophet was a newly-wedded bridegroom’. And in hadith No. 3080: ‘He then handed her to Umm Sulaym to prepare her and get her ready. (He said: I think he said) And so that she observes her waiting period in her home’. The phrase, ‘she observes her waiting time’, means that she had to ensure that she was not pregnant. As a captive woman, she needed to do that. The Prophet placed her with Umm Sulaym during this period. When it was over, and she made clear that she was not pregnant, Umm Sulaym prepared her and applied her makeup as normally done at weddings. She then brought her to the Prophet during the night. The wording of the hadith shows that certain things are placed before others. What it means is that she stayed with Umm Sulaym until she made certain of not being pregnant, then Umm Sulaym prepared her and then brought her to the Prophet. The hadith makes clear that a wedding is permissible at night. We mentioned earlier, in the hadith concerning the Prophet’s marriage to ʿĀ’ishah, that the wedding then took place during the day, and we stated that both situations are permissible, and God knows best.

In the same hadith, No. 3077, the Prophet said to his companions: ‘Whoever has something [of food], let him bring it’. This provides evidence concerning the timing of the wedding dinner, and that it is after the consummation of the marriage. We mentioned earlier that it may be held before or after consummation. It also shows that it is permissible for one in high position to seek his people’s help in such a matter, and that a bridegroom’s neighbours and companions are recommended to help him by providing some food.

‘People brought dried milk, dates and clarified butter. They cooked *ḥays*, and this was God’s Messenger’s wedding dinner’. *Hays* is a dish made of these three items which are mixed and made into a dough ready for eating.

Hadith No. 3079 mentions that a person who sets his slave woman free and marries her ‘earns double reward’. We commented on this hadith earlier, in the Book of Faith. Muslim mentions it again here confirming that the Prophet did this with Ṣafiyyah, to highlight this commendable action.

Hadith No. 3080 mentions that when the Prophet wanted to give his wedding dinner, the earth was dug a little. This means that the place where the hide was put was made a little lower so that when the butter was poured, it would remain in the middle.

Hadith No. 3081 mentions the Prophet’s marriage with Zaynab, and includes: ‘The Prophet called on his wives, greeting each one of them, saying: “Peace be to you, how are you people of this house?” They would say: “We are well. How have you found your wife?” He would say: “She is fine”.’ This piece of the hadith includes a few interesting points. The first is that when a person returns home, it is recommended that he greet his wife and family. Some ignorant and arrogant men feel that they are above doing this. Another point is that when one greets a single person, he should say *al-salām ʿalaykum*, using the plural form, so that his greeting is addressed to the individual person and to the two angels accompanying him or her. Moreover, it is recommended that a man should ask his wife and family how they are. A woman may have something to request of her husband, but she may be too shy to start with putting a request. If the man starts by asking how she is, she will find it easier to state what she needs. Yet another point is that it is desirable to ask the man when he comes home: ‘How are you’, or something similar.

In hadith No. 3080, people were unaware whether the Prophet married Ṣafiyyah or kept her as a slave. Then they said: ‘If he screens her, she is his wife’. Mālikī scholars and others cite this as evidence that marriage is valid

without witnesses to the contract, if it is publicized. Had the Prophet called witnesses to his marriage with Ṣafiyyah, they would not have wondered. This is the view of some scholars of the Prophet's Companions and the following generation, and it is shared by al-Zuhrī and Mālik. The people of Madinah stipulate the publicity, rather than witnesses for the validity of the marriage. A number of the Prophet's Companions and scholars in following generations said: the presence of witnesses is a condition for the validity of the marriage, rather than the publicity. This is the view of al-Awzāʿī, al-Thawrī, al-Shāfiʿī, Abu Ḥanīfah, Ahmad and others. All these stipulate that the witnesses must be men of integrity. Only Abu Ḥanīfah says that it is valid if the witnesses are transgressors.

Muslims are unanimous that if a marriage contract is made secretly without witnesses, it is invalid. If it is made secretly with two witnesses of integrity, it is valid according to the great majority of scholars. Mālik, however, said it is invalid, but God knows best.

i. An explanation of the attitude of Islam to slavery is included at the beginning of Book 20, which deals with freeing slaves, which is included in this volume. What is discussed here is the particular case of a slave woman being set free by her master who then marries her. This is an act of benevolence for which God grants rich reward.

ii. Related by al-Bukhari, 371; Abu Dāwūd, 3009; al-Nasā'ī, 3380.

iii. Related by al-Bukhari in a longer version, 947, 5086 and 5169; Abu Dāwūd, 2054; al-Tirmidhī, 1115; al-Nasā'ī, 3342 and 3343, Ibn Mājah, 1957.

iv. Related by al-Bukhari, 2544; Abu Dāwūd, 2053; al-Nasā'ī, 3345.

v. This hadith is attached to the previous one in Dar al-Salam's edition.

vi. This means that the Prophet's own share equalled four-per-cent of the total war gains.

CHAPTER 15

THE PROPHET'S MARRIAGE TO ZAYNAB BINT JAḤSH

[3083–89]. (Dar al-Salam 3330) Muhammad ibn Ḥātim ibn Maymūn narrated:[i] Bahz narrated [H]. Also, Muhammad ibn Rāfiʿ narrated to me; Abu al-Naḍr Hāshim ibn al-Qāsim narrated; both said: Sulaymān ibn al-Mughīrah narrated; from Thābit; from Anas. This is Bahz's narration; he said: **'When Zaynab finished her waiting period, God's Messenger (peace be upon him) said to Zayd: "Go and propose to her on my behalf". Zayd went to her as she was making her dough. He said: "When I saw her, I was so filled with awe that I could not look at her because God's Messenger was proposing to her. Therefore, I turned my back to her and moved a little away from her. I said: 'Zaynab, God's Messenger (peace be upon him) has sent me with his proposal'. She said: 'I shall do nothing until I have consulted [God] my Lord'. She then rose and went to her place of prayer. The Qur'an was revealed. God's Messenger then came over and entered her home without seeking permission".'**

He said: 'I can see us as God's Messenger (peace be upon him) offered us a feast of bread and meat when the day was in full splendour. People then left and some men stayed inside the home after the dinner. The Prophet went out stopping at his

wives’ apartments and greeting them. They asked him: “How have you found your wife, Messenger of God?”’ He said: ‘I am not sure whether I told him, or he told me, that the men have left. He moved on until he went inside his home. I was about to enter with him, but he dropped the curtain between himself and me. The [commandment of] screening [the Prophet’s wives] was revealed’. He added: ‘The people were given the admonition they received’.

Ibn Rāfiʿ added in his narration [the Qur’anic verse]: **‘Believers! Do not enter the Prophet’s homes unless you are given leave for a meal, without waiting for its proper time. But when you are invited, enter; and when you have eaten, disperse without lingering for the sake of mere talk. Such behaviour might give offence to the Prophet, and yet he might feel too shy to bid you go. God does not shy of stating what is right’. (33: 53)**

حَدَّثَنَا مُحَمَّدُ بْنُ حَاتِمِ بْنِ مَيْمُونٍ، حَدَّثَنَا بَهْزٌ، ح. وَحَدَّثَنِي مُحَمَّدُ بْنُ رَافِعٍ، حَدَّثَنَا أَبُو النَّضْرِ هَاشِمُ بْنُ الْقَاسِمِ. قَالا جَمِيعًا: حَدَّثَنَا سُلَيْمَانُ بْنُ الْـمُغِيرَةِ، عَنْ ثَابِتٍ، عَنْ أَنَسٍ، وَهَذَا حَدِيثُ بَهْزٍ قَالَ: لَـمَّا انْقَضَتْ عِدَّةُ زَيْنَبَ قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ لِزَيْدٍ «فَاذْكُرْهَا عَلَيَّ». قَالَ: فَانْطَلَقَ زَيْدٌ حَتَّى أَتَاهَا وَهْىَ تُخَمِّرُ عَجِينَهَا. قَالَ: فَلَـمَّا رَأَيْتُهَا عَظُمَتْ فِي صَدْرِي، حَتَّى مَا أَسْتَطِيعُ أَنْ أَنْظُرَ إِلَيْهَا، أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ ذَكَرَهَا. فَوَلَّيْتُهَا ظَهْرِي، وَنَكَصْتُ عَلَى عَقِبِي فَقُلْتُ: يَا زَيْنَبُ أَرْسَلَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ يَذْكُرُكِ . قَالَتْ: مَا أَنَا بِصَانِعَةٍ شَيْئًا حَتَّى أُوَامِرَ رَبِّي . فَقَامَتْ إِلَى مَسْجِدِهَا،

وَنَزَلَ الْقُرْآنُ، وَجَاءَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، فَدَخَلَ عَلَيْهَا بِغَيْرِ إِذْنٍ.

قَالَ: فَقَالَ: وَلَقَدْ رَأَيْتُنَا أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ أَطْعَمَنَا الْخُبْزَ وَاللَّحْمَ حِينَ امْتَدَّ النَّهَارُ، فَخَرَجَ النَّاسُ، وَبَقِيَ رِجَالٌ يَتَحَدَّثُونَ فِي الْبَيْتِ بَعْدَ الطَّعَامِ. فَخَرَجَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ وَاتَّبَعْتُهُ. فَجَعَلَ يَتَتَبَّعُ حُجَرَ نِسَائِهِ يُسَلِّمُ عَلَيْهِنَّ، وَيَقُلْنَ: يَا رَسُولَ اللهِ، كَيْفَ وَجَدْتَ أَهْلَكَ؟ قَالَ فَمَا أَدْرِي أَنَا أَخْبَرْتُهُ أَنَّ الْقَوْمَ خَرَجُوا أَوْ أَخْبَرَنِي. قَالَ: فَانْطَلَقَ حَتَّى دَخَلَ الْبَيْتَ، فَذَهَبْتُ أَدْخُلُ مَعَهُ، فَأَلْقَى السِّتْرَ بَيْنِي وَبَيْنَهُ. وَنَزَلَ الْحِجَابُ. قَالَ: وَوُعِظَ الْقَوْمُ بِمَا وُعِظُوا بِهِ .

زَادَ ابْنُ رَافِعٍ فِي حَدِيثِهِ الآية: «يا أَيُّها الذين آمنوا لا تَدْخُلُوا بُيُوتَ النَّبِيِّ إِلاَّ أَنْ يُؤْذَنَ لَكُمْ إِلَى طَعَامٍ غَيْرَ نَاظِرِينَ إِنَاهُ» إِلَى قَوْلِهِ: «وَاللهُ لاَ يَسْتَحْيِي مِنَ الْحَقِّ».

[3084–90]. (Dar al-Salam 3331) Abu al-Rabīʿ al-Zahrānī, Abu Kāmil Fuḍayl ibn Ḥusayn and Qutaybah ibn Saʿīd narrated:[ii] they said: Ḥammād (who is ibn Zayd) narrated; from Thābit; from Anas; (in Abu Kāmil's narration: I heard Anas:) he said: **'I have not seen God's Messenger (peace be upon him) giving a bigger wedding feast for any woman (Abu Kāmil said: for anyone) of his wives, as he did for Zaynab. He slaughtered a sheep'.**

حَدَّثَنَا أَبُو الرَّبِيعِ الزَّهْرَانِيُّ، وَأَبُو كَامِلٍ فُضَيْلُ بْنُ حُسَيْنٍ، وَقُتَيْبَةُ بْنُ سَعِيدٍ قَالُوا: حَدَّثَنَا حَمَّادٌ (وَهُوَ ابْنُ زَيْدٍ)، عَنْ ثَابِتٍ، عَنْ أَنَسٍ، (وَفِي رِوَايَةِ أَبِي كَامِلٍ سَمِعْتُ أَنَسًا)، قَالَ: مَا رَأَيْتُ رَسُولَ اللهِ صَلَّى اللهُ

عَلَيْهِ وَسَلَّمَ أَوْلَمَ عَلَى امْرَأَةٍ - وَقَالَ أَبُو كَامِلٍ عَلَى شَىْءٍ - مِنْ نِسَائِهِ مَا أَوْلَمَ عَلَى زَيْنَبَ، فَإِنَّهُ ذَبَحَ شَاةً.

[3085–91]. (Dar al-Salam 3332) Muhammad ibn ʿAmr ibn ʿAbbād ibn Jabalah ibn Abi Rawwād and Muhammad ibn Bashshār narrated: both said: Muhammad (who is ibn Jaʿfar) narrated; Shuʿbah narrated; from ʿAbd al-ʿAzīz ibn Ṣuhayb narrated. He said: **‘I heard Anas ibn Mālik say: “God’s Messenger (peace be upon him) never gave a bigger or a better wedding feast for any of his wives, as he did for Zaynab”.’ Thābit al-Bunānī asked: ‘What did he serve?’ He said: ‘He fed them bread and meat until they left off’.**

حَدَّثَنَا مُحَمَّدُ بْنُ عَمْرِو بْنِ عَبَّادِ بْنِ جَبَلَةَ بْنِ أَبِي رَوَّادٍ، وَمُحَمَّدُ بْنُ بَشَّارٍ، قَالا: حَدَّثَنَا مُحَمَّدٌ (وَهُوَ ابْنُ جَعْفَرٍ)، حَدَّثَنَا شُعْبَةُ، عَنْ عَبْدِ الْعَزِيزِ بْنِ صُهَيْبٍ قَالَ: سَمِعْتُ أَنَسَ بْنَ مَالِكٍ يَقُولُ: مَا أَوْلَمَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ عَلَى امْرَأَةٍ مِنْ نِسَائِهِ أَكْثَرَ أَوْ أَفْضَلَ مِمَّا أَوْلَمَ عَلَى زَيْنَبَ . فَقَالَ ثَابِتٌ الْبُنَانِيُّ: بِمَا أَوْلَمَ؟ قَالَ: أَطْعَمَهُمْ خُبْزًا وَلَحْمًا حَتَّى تَرَكُوهُ.

[3086–92]. (Dar al-Salam 3333) Yaḥyā ibn Ḥabīb al-Ḥārithī, ʿĀṣim ibn al-Naḍr al-Taymī and Muhammad ibn ʿAbd al-Aʿlā narrated:[iii] all from Muʿtamir (Ibn Ḥabīb’s text); Muʿtamir ibn Sulaymān narrated; he said: I heard my father say: Abu Mijlaz narrated; from Anas ibn Mālik. He said: **‘When the Prophet (peace be upon him) married Zaynab bint Jaḥsh, he invited the people, and they had their meal. They then stayed, engaged in conversation.**

He started to move as if preparing to go, but they did not go. When he realized this, he stood up. Other people also stood’.

ʿĀṣim and ʿAbd al-Aʿlā added in their narration: **‘Three people stayed on. The Prophet came back and wanted to enter but found the people still seated. They later rose and left. I went and informed the Prophet that they had left’. He said: ‘He came over and entered. I wanted to enter, but he dropped the curtain between himself and me. God, Mighty and Exalted, revealed the verse: “Believers! Do not enter the Prophet’s homes unless you are given leave for a meal, without waiting for its proper time. But when you are invited, enter; and when you have eaten, disperse without lingering for the sake of mere talk. Such behaviour might give offence to the Prophet, and yet he might feel too shy to bid you go. God does not shy of stating what is right. When you ask the Prophet’s wives for something, do so from behind a screen. This makes for greater purity for your hearts and theirs. Moreover, it does not behove you to give offence to God’s Messenger, just as it would not behove you ever to marry his widows after he has passed away. That is certainly an enormity in God’s sight”.’ (33: 53)**

حَدَّثَنَا يَحْيَى بْنُ حَبِيبٍ الْحَارِثِيُّ، وَعَاصِمُ بْنُ النَّضْرِ التَّيْمِيُّ، وَمُحَمَّدُ بْنُ عَبْدِ الأَعْلَى، كُلُّهُمْ عَنْ مُعْتَمِرٍ (وَاللَّفْظُ لاِبْنِ حَبِيبٍ)، حَدَّثَنَا مُعْتَمِرُ بْنُ سُلَيْمَانَ، قَالَ سَمِعْتُ أَبِي، حَدَّثَنَا أَبُو مِجْلَزٍ، عَنْ أَنَسِ بْنِ مَالِكٍ قَالَ: لَـمَّا تَزَوَّجَ النَّبِيُّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ زَيْنَبَ بِنْتَ جَحْشٍ دَعَا الْقَوْمَ فَطَعِمُوا ثُمَّ جَلَسُوا يَتَحَدَّثُونَ. قَالَ: فَأَخَذَ كَأَنَّهُ يَتَهَيَّأُ لِلْقِيَامِ، فَلَمْ يَقُومُوا. فَلَـمَّا رَأَى ذَلِكَ قَامَ. فَلَـمَّا قَامَ قَامَ مَنْ قَامَ مِنَ الْقَوْمِ .

زَادَ عَاصِمٌ وَابْنُ عَبْدِ الأَعْلَى فِي حَدِيثِهِمَا قَالَ: فَقَعَدَ ثَلاَثَةٌ. وَإِنَّ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ جَاءَ لِيَدْخُلَ فَإِذَا الْقَوْمُ جُلُوسٌ، ثُمَّ إِنَّهُمْ قَامُوا فَانْطَلَقُوا. قَالَ: فَجِئْتُ فَأَخْبَرْتُ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ أَنَّهُمْ قَدِ انْطَلَقُوا. قَالَ: فَجَاءَ حَتَّى دَخَلَ، فَذَهَبْتُ أَدْخُلُ، فَأَلْقَى الْحِجَابَ بَيْنِي وَبَيْنَهُ. قَالَ: وَأَنْزَلَ اللهُ عَزَّ وَجَلَّ: «يَا أَيُّهَا الَّذِينَ آمَنُوا لاَ تَدْخُلُوا بُيُوتَ النَّبِيِّ إِلاَّ أَنْ يُؤْذَنَ لَكُمْ إِلَى طَعَامٍ غَيْرَ نَاظِرِينَ إِنَاهُ»... إِلَى قَوْلِهِ: «إِنَّ ذَلِكُمْ كَانَ عِنْدَ اللهِ عَظِيمًا».

[3087–93]. (Dar al-Salam 3334) ʿAmr al-Nāqid narrated to me:[iv] Yaʿqūb ibn Ibrāhīm ibn Saʿd narrated; my father narrated; from Ṣāliḥ; Ibn Shihāb said that Anas ibn Mālik said: **‘I have the best knowledge about the screening. Ubay ibn Kaʿb used to ask me about it’. Anas said: ‘God’s Messenger (peace be upon him) wedded Zaynab bint Jaḥsh in Madinah. The following morning, he invited the people for a feast as the day was in splendour. God’s Messenger sat down, and some people sat with him after [most] people had left. Then God’s Messenger stood and walked out. I walked with him until he reached ʿĀ’ishah’s apartment. He then thought that they might have left, and he returned. I returned with him. The people were still seated in their place. He left again and I left with him, until he reached ʿĀ’ishah’s apartment, then he returned, and I returned. He found that they had left. The curtain was dropped between him and me, and God revealed the verse mentioning the screening [of the Prophet’s wives].**

وَحَدَّثَنِي عَمْرٌو النَّاقِدُ، حَدَّثَنَا يَعْقُوبُ بْنُ إِبْرَاهِيمَ بْنِ سَعْدٍ، حَدَّثَنَا أَبِي، عَنْ صَالِحٍ، قَالَ ابْنُ شِهَابٍ إِنَّ أَنَسَ بْنَ مَالِكٍ قَالَ: أَنَا أَعْلَمُ النَّاسِ بِالْحِجَابِ. لَقَدْ كَانَ أُبَىُّ بْنُ كَعْبٍ يَسْأَلُنِي عَنْهُ . قَالَ أَنَسٌ: أَصْبَحَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ عَرُوسًا بِزَيْنَبَ بِنْتِ جَحْشٍ. قَالَ: وَكَانَ تَزَوَّجَهَا بِالْـمَدِينَةِ. فَدَعَا النَّاسَ لِلطَّعَامِ بَعْدَ ارْتِفَاعِ النَّهَارِ. فَجَلَسَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، وَجَلَسَ مَعَهُ رِجَالٌ بَعْدَ مَا قَامَ الْقَوْمُ. حَتَّى قَامَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، فَمَشَى فَمَشَيْتُ مَعَهُ حَتَّى بَلَغَ بَابَ حُجْرَةِ عَائِشَةَ. ثُمَّ ظَنَّ أَنَّهُمْ قَدْ خَرَجُوا فَرَجَعَ وَرَجَعْتُ مَعَهُ، فَإِذَا هُمْ جُلُوسٌ مَكَانَهُمْ. فَرَجَعَ فَرَجَعْتُ الثَّانِيَةَ حَتَّى بَلَغَ حُجْرَةَ عَائِشَةَ، فَرَجَعَ فَرَجَعْتُ، فَإِذَا هُمْ قَدْ قَامُوا. فَضَرَبَ بَيْنِي وَبَيْنَهُ بِالسِّتْرِ، وَأَنْزَلَ اللهُ آيَةَ الْحِجَابِ.

[3088–94]. (Dar al-Salam 3335) Qutaybah ibn Saʿīd narrated:[v] Jaʿfar (meaning ibn Sulaymān) narrated; from al-Jaʿd ibn Abi ʿUthmān; from Anas ibn Mālik. He said: **‘God’s Messenger (peace be upon him) got married and he consummated his marriage’. He said: ‘My mother, Umm Sulaym, cooked *ḥays* and put it in a jug. She said: “Anas, take this to God’s Messenger (peace be upon him) and say: ‘My mother has sent you this, and she sends her greetings and says that this is very little from us to you, Messenger of God’. I took it to God’s Messenger and said: “My mother sends you her greetings and says that this is very little from us to you, God’s Messenger”. He said: “Put it down”. He then said: “Go and invite A, B, C and whomever**

you meet". He named certain people. I went out and invited those he named and whomever I met'.

He said: I said to Anas: 'How many were they?' He said: 'Nearly three hundred'.

'God's Messenger said to me: "Anas, bring the jug".' He said: 'The people came in, and the parlour and room were full. God's Messenger said: "Let every ten people form a circle and let everyone eat what is next to him". They ate their fill. A group went out and another came in, until they all had eaten. He then said to me: "Anas, you may lift [the food]". I took it away. I am not sure whether it was more plentiful when I lifted it or when I put it down'.

He said: 'Some groups remained in the Prophet's home engaged in conversation, and God's Messenger was sitting, while his wife sat down, with her face towards the wall. God's Messenger (peace be upon him) felt embarrassed, and he went out and greeted his wives and came back. When the people saw God's Messenger returning, they thought that they might have embarrassed him, and they were quick to the door and all left. God's Messenger came in, dropped the curtain and went in. I remained in the apartment. He stayed only a little while and came out to me. This verse was revealed. The Prophet went out and recited it to the people: "Believers! Do not enter the Prophet's homes unless you are given leave for a meal, without waiting for its proper time. But when you are invited, enter; and when you have eaten, disperse without lingering for the sake of mere talk. Such behaviour might give offence to the Prophet, and yet he might feel too shy to bid you go. God does

not shy of stating what is right. When you ask the Prophet's wives for something, do so from behind a screen. This makes for greater purity for your hearts and theirs. Moreover, it does not behove you to give offence to God's Messenger, just as it would not behove you ever to marry his widows after he has passed away. That is certainly an enormity in God's sight". (33: 53)'

Al-Jaʿd said: Anas ibn Mālik said: I am the first to learn these verses. Thus, the Prophet's wives were screened'.

حَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ، حَدَّثَنَا جَعْفَرٌ (يَعْنِي ابْنَ سُلَيْمَانَ)، عَنِ الْجَعْدِ أَبِي عُثْمَانَ، عَنْ أَنَسِ بْنِ مَالِكٍ، قَالَ: تَزَوَّجَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَدَخَلَ بِأَهْلِهِ. قَالَ: فَصَنَعَتْ أُمِّي أُمُّ سُلَيْمٍ حَيْسًا فَجَعَلَتْهُ فِي تَوْرٍ. فَقَالَتْ: يَا أَنَسُ، اذْهَبْ بِهَذَا إِلَى رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَقُلْ «بَعَثَتْ بِهَذَا إِلَيْكَ أُمِّي، وَهْيَ تُقْرِئُكَ السَّلاَمَ وَتَقُولُ إِنَّ هَذَا لَكَ مِنَّا قَلِيلٌ يَا رَسُولَ اللهِ. قَالَ: فَذَهَبْتُ بِهَا إِلَى رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَقُلْتُ: إِنَّ أُمِّي تُقْرِئُكَ السَّلاَمَ وَتَقُولُ إِنَّ هَذَا لَكَ مِنَّا قَلِيلٌ يَا رَسُولَ اللهِ . فَقَالَ: «ضَعْهُ». ثُمَّ قَالَ: «اذْهَبْ فَادْعُ لِي فُلاَنًا وَفُلاَنًا وَفُلاَنًا، وَمَنْ لَقِيتَ». وَسَمَّى رِجَالاً. قَالَ: فَدَعَوْتُ مَنْ سَمَّى، وَمَنْ لَقِيتُ.

قَالَ قُلْتُ لأَنَسٍ: عَدَدَ كَمْ كَانُوا؟ قَالَ: زُهَاءَ ثَلاَثِمِائَةٍ .

وَقَالَ لِي رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «يَا أَنَسُ، هَاتِ التَّوْرَ» . قَالَ: فَدَخَلُوا حَتَّى امْتَلأَتِ الصُّفَّةُ وَالْحُجْرَةُ. فَقَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «لِيَتَحَلَّقْ عَشَرَةٌ عَشَرَةٌ، وَلْيَأْكُلْ كُلُّ إِنْسَانٍ مِمَّا يَلِيهِ». قَالَ: فَأَكَلُوا حَتَّى شَبِعُوا. قَالَ: فَخَرَجَتْ طَائِفَةٌ وَدَخَلَتْ طَائِفَةٌ، حَتَّى

أَكَلُوا كُلَّهُمْ . فَقَالَ لِي: «يَا أَنَسُ، ارْفَعْ». قَالَ:، فَرَفَعْتُ فَمَا أَدْرِي حِينَ وَضَعْتُ كَانَ أَكْثَرَ، أَمْ حِينَ رَفَعْتُ.

قَالَ: وَجَلَسَ طَوَائِفُ مِنْهُمْ يَتَحَدَّثُونَ فِي بَيْتِ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، وَرَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ جَالِسٌ، وَزَوْجَتُهُ مُوَلِّيَةٌ وَجْهَهَا إِلَى الْحَائِطِ.، فَثَقُلُوا عَلَى رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَخَرَجَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَسَلَّمَ عَلَى نِسَائِهِ، ثُمَّ رَجَعَ. فَلَـمَّا رَأَوْا رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَدْ رَجَعَ ظَنُّوا أَنَّهُمْ قَدْ ثَقُلُوا عَلَيْهِ. قَالَ: فَابْتَدَرُوا الْبَابَ فَخَرَجُوا كُلُّهُمْ. وَجَاءَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ َحتَّى أَرْخَى السِّتْرَ وَدَخَلَ، وَأَنَا جَالِسٌ فِي الْحُجْرَةِ، فَلَمْ يَلْبَثْ إِلاَّ يَسِيرًا حَتَّى خَرَجَ عَلَيَّ. وَأُنْزِلَتْ هَذِهِ الآيَةُ، فَخَرَجَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ وَقَرَأَهُنَّ عَلَى النَّاسِ: «يَا أَيُّهَا الَّذِينَ آمَنُوا لاَ تَدْخُلُوا بُيُوتَ النَّبِيِّ إِلاَّ أَنْ يُؤْذَنَ لَكُمْ إِلَى طَعَامٍ غَيْرَ نَاظِرِينَ إِنَاهُ وَلَكِنْ إِذَا دُعِيتُمْ فَادْخُلُوا فَإِذَا طَعِمْتُمْ فَانْتَشِرُوا وَلاَ مُسْتَأْنِسِينَ لِحَدِيثٍ إِنَّ ذَلِكُمْ كَانَ يُؤْذِي النَّبِيَّ» إِلَى آخِرِ الآيَةِ .

قَالَ الْجَعْدُ قَالَ أَنَسُ بْنُ مَالِكٍ: أَنَا أَحْدَثُ النَّاسِ عَهْدًا بِهَذِهِ الآيَاتِ. وَحُجِبْنَ نِسَاءُ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ.

[3089–95]. (Dar al-Salam 3336) Muhammad ibn Rāfiʿ narrated to me: ʿAbd al-Razzāq narrated; Maʿmar narrated; from Abu ʿUthmān; from Anas. He said: **‘When the Prophet (peace be upon him) married Zaynab, Umm Sulaym sent him a gift, *ḥays* in a stone jug. God’s Messenger said to me: “Go and invite whomever you meet of Muslims”. I went out and invited**

whomever I met. They started coming in and eating then leaving. The Prophet (peace be upon him) placed his hand on the food and supplicated. He said about it whatever God willed that he say. I invited every single one I met. They all ate their fill and left. A group stayed on and remained in conversation for a long while. The Prophet was too shy to say anything to them. He, therefore, went out leaving them in his home. God then revealed the verse: "Believers! Do not enter the Prophet's homes unless you are given leave for a meal, without waiting for its proper time. But when you are invited, enter; and when you have eaten, disperse without lingering for the sake of mere talk. Such behaviour might give offence to the Prophet, and yet he might feel too shy to bid you go. God does not shy of stating what is right. When you ask the Prophet's wives for something, do so from behind a screen. This makes for greater purity for your hearts and theirs".' (33: 53)

وَحَدَّثَنِي مُحَمَّدُ بْنُ رَافِعٍ، حَدَّثَنَا عَبْدُ الرَّزَّاقِ، حَدَّثَنَا مَعْمَرٌ، عَنْ أَبِي عُثْمَانَ، عَنْ أَنَسٍ قَالَ: لَـمَّا تَزَوَّجَ النَّبِيُّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ زَيْنَبَ، أَهْدَتْ لَهُ أُمُّ سُلَيْمٍ حَيْسًا فِي تَوْرٍ مِنْ حِجَارَةٍ. فَقَالَ أَنَسٌ فَقَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «اذْهَبْ فَادْعُ لِي مَنْ لَقِيتَ مِنَ الْـمُسْلِمِينَ». فَدَعَوْتُ لَهُ مَنْ لَقِيتُ، فَجَعَلُوا يَدْخُلُونَ عَلَيْهِ فَيَأْكُلُونَ وَيَخْرُجُونَ. وَوَضَعَ النَّبِيُّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ يَدَهُ عَلَى الطَّعَامِ فَدَعَا فِيهِ، وَقَالَ فِيهِ مَا شَاءَ اللهُ أَنْ يَقُولَ. وَلَمْ أَدَعْ أَحَدًا لَقِيتُهُ إِلاَّ دَعَوْتُهُ، فَأَكَلُوا حَتَّى شَبِعُوا وَخَرَجُوا، وَبَقِيَ طَائِفَةٌ مِنْهُمْ فَأَطَالُوا عَلَيْهِ الْحَدِيثَ. فَجَعَلَ النَّبِيُّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ يَسْتَحْيِي مِنْهُمْ أَنْ يَقُولَ لَهُمْ شَيْئًا،

فَخَرَجَ وَتَرَكَهُمْ فِي الْبَيْتِ فَأَنْزَلَ اللهُ عَزَّ وَجَلَّ: «يَا أَيُّهَا الَّذِينَ آمَنُوا لاَ تَدْخُلُوا بُيُوتَ النَّبِيِّ إِلاَّ أَنْ يُؤْذَنَ لَكُمْ إِلَى طَعَامٍ غَيْرَ نَاظِرِينَ إِنَاهُ». قَالَ قَتَادَةُ: غَيْرَ مُتَحَيِّنِينَ طَعَامًا، وَلَكِنْ إِذَا دُعِيتُمْ فَادْخُلُوا، حَتَّى بَلَغَ: «ذَلِكُمْ أَطْهَرُ لِقُلُوبِكُمْ وَقُلُوبِهِنَّ».

Text Explanation

Note: To put the case into proper perspective, we should give the following background information. Zaynab bint Jaḥsh was the Prophet's cousin, as her mother was his paternal aunt. Zayd ibn Ḥārithah was kidnapped when he was a young boy and sold as a slave. He ended up in Makkah, given to Khadījah as a gift by her uncle. When she married the Prophet, she gave Zayd to him as a gift. His father learnt that he was in Makkah, and he came over and offered to buy him back. The Prophet gave Zayd a choice to go with his father or to remain with him, and Zayd chose to stay. The Prophet then adopted him as his son. All this was long before the prophethood. Later, the Prophet gave him Zaynab, his cousin, as a wife. She did not like the marriage and the couple got divorced. When God prohibited adoption, He instructed the Prophet to marry Zaynab, so that the whole idea of adoption and what it may involve, or entail, is totally removed from people's minds.

Hadith No. 3083 mentions that the Prophet sent Zayd with his proposal to Zaynab. This suggests that there is nothing wrong with sending the former husband of a woman to her with a proposal of marriage, if the sender knows that the former husband does not dislike this, as was the case with Zayd and the Prophet. Zayd reports: 'When I saw her, I was so filled with awe that I could not look at her because God's Messenger was proposing to her. Therefore, I turned my back to her and moved a little away from her'. This means that he felt the awe of the situation because the Prophet wanted to marry her. Therefore, Zayd treated her with all the respect and honour due to the Prophet's wives. He moved back, after having been near as would have been normal in such cases. Feeling such awe, he spoke turning his back to her, so that he might not look at her, although this was before the commandment to screen the Prophet's wives.

When Zayd told her of the Prophet's proposal, she said: 'I shall do nothing until I have consulted [God] my Lord'. She then rose and went to

her place of prayer. This indicates the desirability of offering the *Istikhārah* Prayer before making a choice, even when something is clearly good and beneficial. *Istikhārah* is a prayer followed by a supplication for God's guidance in making a choice regarding a particular matter. This is consistent with a hadith narrated by Jābir and related by al-Bukhari. It says: 'When any of you is about to make a decision regarding a certain matter, he should pray two voluntary *rakʿahs*…' Perhaps Zaynab chose to do the *Istikhārah* on this occasion because she feared that she might fall short of fulfilling her duties as the Prophet's wife.

Anas continues: 'The Qur'an was revealed. God's Messenger then came over and entered her home without seeking permission'. Anas is referring to the revelation of the Qur'anic verse which includes: 'When Zayd had come to the end of his union with her, We gave her to you in marriage'. (33: 37) The Prophet entered without requesting permission because God Himself gave her to him as his wife, as confirmed in this verse.

The Prophet gave the people a wedding dinner and they ate their fill. Everyone ate as much as they wanted. The Prophet then went to his other wives, when some people lingered in his home, as we explained in the previous chapter.

In hadith No. 3085, Anas says: 'God's Messenger (peace be upon him) never gave a bigger or a better wedding feast for any of his wives, as he did for Zaynab'. Perhaps the reason was to thank God for His favour as He gave him Zaynab as a wife by revelation, not by a marriage contract that requires a guardian and witnesses, like other marriages. The correct and well-known view of our school is that his marriage without the presence of a guardian and witnesses was valid because these were not required in his case. The difference of views on this point does not apply to Zaynab because her situation is stated in the Qur'anic text. The difference applies to other women, but God knows best.

Hadith No. 3088 mentions that Umm Sulaym cooked a dish and sent it to God's Messenger saying that it was too little. This confirms that it is

recommended that friends of a bridegroom send him some food to help him with providing his wedding feast. It also shows that it is right that the senders make their excuses to the bridegroom, as Umm Sulaym said that what she sent was too little. She also sent her greeting, which is also recommended if the person sending them has some reason preventing him or her from attending.

The Prophet instructs Anas to invite certain people he named and also whoever Anas met on the way. This shows that the invitation may be sent to certain identified people and to others who are unidentified, as the Prophet said to Anas ‘whoever you meet’. This hadith demonstrates a clear miracle from the Prophet through which a limited amount of food was sufficient for all those attending, amounting to ‘nearly three hundred’.

Transmission

In hadith No. 3086, the chain of transmission includes Abu Mijlaz, who narrates from Anas ibn Mālik. Abu Mijlaz's name is Lāḥiq ibn Ḥumayd. He is the only narrator in all chains of transmission in the two *Ṣaḥīḥ* anthologies of al-Bukhari and Muslim whose name starts with the combination of Lā, which is often referred to as one letter.

i. Related by al-Nasā'ī, 3251.
ii. Related by al-Bukhari, 5168 and 5171; Abu Dāwūd, 3743; Ibn Mājah, 1908.
iii. Related by al-Bukhari, 4791, 6239 and 6271.
iv. Related by al-Bukhari, 5466.
v. Related by al-Bukhari, 5163; al-Tirmidhī in a shorter version, 3218; al-Nasā'ī in a shorter version, 3387.

CHAPTER 16

THE ORDER TO ACCEPT INVITATIONS

[3090–96]. (Dar al-Salam 3337) Yaḥyā ibn Yaḥyā narrated: he said:[i] I read out to Mālik; from Nāfiʿ; from Ibn ʿUmar. He said: **‘God’s Messenger (peace be upon him) said: “If any of you is invited to a wedding feast, he should go”.’**

حَدَّثَنَا يَحْيَى بْنُ يَحْيَى، قَالَ قَرَأْتُ عَلَى مَالِكٍ، عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ قَالَ: قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «إِذَا دُعِيَ أَحَدُكُمْ إِلَى الْوَلِيمَةِ فَلْيَأْتِهَا».

[3091–97]. (Dar al-Salam 3338) Muhammad ibn al-Muthannā narrated: Khālid ibn al-Ḥārith narrated; from ʿUbaydullāh; from Nāfiʿ; from Ibn ʿUmar; from the Prophet (peace be upon him). He said: **‘If any of you is invited to a dinner, he should attend’.**

Khālid said: **‘I noted that ʿUbaydullāh applies this to a wedding’.**

وَحَدَّثَنَا مُحَمَّدُ بْنُ الْـمُثَنَّى، حَدَّثَنَا خَالِدُ بْنُ الْحَارِثِ، عَنْ عُبَيْدِ اللهِ، عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ، عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ. «إِذَا دُعِيَ أَحَدُكُمْ إِلَى الْوَلِيمَةِ فَلْيُجِبْ ». قَالَ خَالِدٌ: فَإِذَا عُبَيْدُ اللهِ يُنَزِّلُهُ عَلَى الْعُرْسِ.

[3092–98]. (Dar al-Salam 3339) Ibn Numayr narrated:[ii] my father narrated; ʿUbaydullāh narrated; from Nāfiʿ; from Ibn ʿUmar; that the Prophet (peace be upon him) said: **‘If any of you is invited to a wedding feast, he should go’.**

حَدَّثَنَا ابْنُ نُمَيْرٍ، حَدَّثَنَا أبي، حَدَّثَنَا عُبَيْدُ اللهِ، عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ، أَنَّ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: «إِذَا دُعِيَ أَحَدُكُمْ إِلَى وَلِيمَةِ عُرْسٍ فَلْيُجِبْ».

[3093–99]. (Dar al-Salam 3340) Abu al-Rabīʿ and Abu Kāmil narrated to me:[iii] both said: Ḥammād narrated; Ayyūb narrated [H]. Also, Qutaybah narrated; Ḥammād narrated; from Ayyūb; from Nāfiʿ; from Ibn ʿUmar. He said: **‘God’s Messenger (peace be upon him) said: “Attend, if you are invited”.’**

حَدَّثَنِي أَبُو الرَّبِيعِ، وَأَبُو كَامِلٍ قَالا: حَدَّثَنَا حَمَّادٌ، حَدَّثَنَا أَيُّوبُ، ح. وَحَدَّثَنَا قُتَيْبَةُ، حَدَّثَنَا حَمَّادٌ، عَنْ أَيُّوبَ، عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ قَالَ: قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «ائْتُوا الدَّعْوَةَ إِذَا دُعِيتُمْ».

[3094–100]. (Dar al-Salam 3341) Muhammad ibn Rāfiʿ narrated to me: ʿAbd al-Razzāq narrated; Maʿmar reported; from Ayyūb; from Nāfiʿ; from Ibn ʿUmar; he used to say that the Prophet (peace be upon him) said: **‘If any of you invites his brother, he should attend, whether it is a wedding or something similar’.**

وَحَدَّثَنِي مُحَمَّدُ بْنُ رَافِعٍ، حَدَّثَنَا عَبْدُ الرَّزَّاقِ، أَخْبَرَنَا مَعْمَرٌ، عَنْ أَيُّوبَ، عَنْ نَافِعٍ، أَنَّ ابْنَ عُمَرَ كَانَ يَقُولُ عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «إِذَا

دَعَا أَحَدُكُمْ أَخَاهُ فَلْيُجِبْ، عُرْسًا كَانَ أَوْ نَحْوَهُ».

[3095–101]. (Dar al-Salam 3342) Isḥāq ibn Manṣūr narrated to me:[iv] ʿĪsā ibn al-Mundhir narrated to me; Baqiyyah narrated; al-Zubaydī narrated; from Nāfiʿ; from Ibn ʿUmar. He said: **‘God’s Messenger (peace be upon him) said: “Whoever is invited to a wedding or something similar should attend”.’**

وَحَدَّثَنِي إِسْحَاقُ بْنُ مَنْصُورٍ، حَدَّثَنِي عِيسَى بْنُ الْـمُنْذِرِ، حَدَّثَنَا بَقِيَّةُ، حَدَّثَنَا الزُّبَيْدِيُّ، عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ قَالَ: قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «مَنْ دُعِيَ إِلَى عُرْسٍ أَوْ نَحْوِهِ فَلْيُجِبْ».

[3096–102]. (Dar al-Salam 3343) Ḥumayd ibn Masʿadah al-Bāhilī narrated to me:[v] Bishr ibn al-Mufaḍḍal narrated; Ismāʿīl ibn Umayyah narrated; from Nāfiʿ; from ʿAbdullāh ibn ʿUmar. He said: **‘God’s Messenger (peace be upon him) said: “Go to the invitation if you are invited”.’**

حَدَّثَنِي حُمَيْدُ بْنُ مَسْعَدَةَ الْبَاهِلِيُّ، حَدَّثَنَا بِشْرُ بْنُ الْـمُفَضَّلِ، حَدَّثَنَا إِسْمَاعِيلُ بْنُ أُمَيَّةَ، عَنْ نَافِعٍ، عَنْ عَبْدِ اللهِ بْنِ عُمَرَ قَالَ: قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «ائْتُوا الدَّعْوَةَ إِذَا دُعِيتُمْ».

[3097–103]. (Dar al-Salam 3344) Ḥārūn ibn ʿAbdullāh narrated to me:[vi] Ḥajjāj ibn Muhammad narrated; from Ibn Jurayj; Mūsā ibn ʿUqbah reported to me; from Nāfiʿ; he said: I heard ʿAbdullāh ibn ʿUmar say: **‘God’s Messenger (peace be upon him) said: “Attend this invitation if you are invited”.’**

He said: ‘ʿAbdullāh ibn ʿUmar used to go to invitations, whether a wedding or not. He would go even if he were fasting’.

وَحَدَّثَنِي هَارُونُ بْنُ عَبْدِ اللهِ، حَدَّثَنَا حَجَّاجُ بْنُ مُحَمَّدٍ، عَنِ ابْنِ جُرَيْجٍ، أَخْبَرَنِي مُوسَى بْنُ عُقْبَةَ، عَنْ نَافِعٍ قَالَ: سَمِعْتُ عَبْدَ اللهِ بْنَ عُمَرَ يَقُولُ: قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «أَجِيبُوا هَذِهِ الدَّعْوَةَ إِذَا دُعِيتُمْ لَهَا ».

قَالَ: وَكَانَ عَبْدُ اللهِ بْنُ عُمَرَ يَأْتِي الدَّعْوَةَ فِي الْعُرْسِ وَغَيْرِ الْعُرْسِ، وَيَأْتِيهَا وَهُوَ صَائِمٌ.

[3098–104]. (Dar al-Salam 3345) Ḥarmalah ibn Yaḥyā narrated to me: Ibn Wahb reported; ʿUmar ibn Muhammad narrated to me; from Nāfiʿ; from Ibn ʿUmar; that the Prophet said: **‘If you are invited to a foot [of cattle], attend’.**

وَحَدَّثَنِي حَرْمَلَةُ بْنُ يَحْيَى، أَخْبَرَنَا ابْنُ وَهْبٍ، حَدَّثَنِي عُمَرُ بْنُ مُحَمَّدٍ، عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ، أَنَّ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: «إِذَا دُعِيتُمْ إِلَى كُرَاعٍ فَأَجِيبُوا».

[3099–105]. (Dar al-Salam 3346-3347) Muhammad ibn al-Muthannā narrated:[vii] ʿAbd al-Raḥmān ibn Mahdī narrated [H]. Also, Muhammad ibn ʿAbdullāh ibn Numayr narrated; my father narrated; both said: Sufyān narrated; from Abu al-Zubayr; from Jābir. He said: **‘God’s Messenger (peace be upon him) said: “When any of you is invited to a meal, he should go. He may eat if he wishes and may not if he so desires”.’**

Ibn al-Muthannā did not mention: **‘to a meal’**.

وَحَدَّثَنَا مُحَمَّدُ بْنُ الْـمُثَنَّى، حَدَّثَنَا عَبْدُ الرَّحْمَنِ بْنُ مَهْدِيٍّ، ح. وَحَدَّثَنَا مُحَمَّدُ بْنُ عَبْدِ اللهِ بْنِ نُمَيْرٍ، حَدَّثَنَا أَبِي، قَالا: حَدَّثَنَا سُفْيَانُ، عَنْ أَبِي الزُّبَيْرِ، عَنْ جَابِرٍ قَالَ: قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «إِذَا دُعِيَ أَحَدُكُمْ إِلَى طَعَامٍ فَلْيُجِبْ، فَإِنْ شَاءَ طَعِمَ وَإِنْ شَاءَ تَرَكَ». وَلَمْ يَذْكُرِ ابْنُ الْـمُثَنَّى: «إِلَى طَعَامٍ».

Ibn Numayr narrated:[viii] Abu ʿĀṣim narrated; from Ibn Jurayj; from Abu al-Zubayr; with this chain of transmission: **the same text.**

وَحَدَّثَنَا ابْنُ نُمَيْرٍ، حَدَّثَنَا أَبُو عَاصِمٍ، عَنِ ابْنِ جُرَيْجٍ، عَنْ أَبِي الزُّبَيْرِ، بِهَذَا الإِسْنَادِ: بِمِثْلِهِ.

[3100–106]. (Dar al-Salam 3348) Abu Bakr ibn Abi Shaybah narrated: Ḥafṣ ibn Ghiyāth narrated; from Hishām; from Ibn Sīrīn; from Abu Hurayrah. He said: **‘God’s Messenger (peace be upon him) said: “If you are invited, attend. If you are fasting, pray, and if you are not, eat”.’**

حَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا حَفْصُ بْنُ غِيَاثٍ، عَنْ هِشَامٍ، عَنِ ابْنِ سِيرِينَ، عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «إِذَا دُعِيَ أَحَدُكُمْ فَلْيُجِبْ. فَإِنْ كَانَ صَائِمًا، فَلْيُصَلِّ، وَإِنْ كَانَ مُفْطِرًا فَلْيَطْعَمْ».

[3101–107]. (Dar al-Salam 3349) Yaḥyā ibn Yaḥyā narrated:[ix] he said: I read out to Mālik; from Ibn Shihāb; from al-Aʿraj; from Abu

Hurayrah; that he used to say: **‘Foul is the food of a feast to which rich people are invited and poor ones are left out. Whoever does not attend an invitation disobeys God and His Messenger’.**

حَدَّثَنَا يَحْيَى بْنُ يَحْيَى، قَالَ قَرَأْتُ عَلَى مَالِكٍ، عَنِ ابْنِ شِهَابٍ، عَنِ الأَعْرَجِ، عَنْ أَبِي هُرَيْرَةَ، أَنَّهُ كَانَ يَقُولُ: بِئْسَ الطَّعَامُ طَعَامُ الْوَلِيمَةِ يُدْعَى إِلَيْهِ الأَغْنِيَاءُ وَيُتْرَكُ الْـمَسَاكِينُ. فَمَنْ لَمْ يَأْتِ الدَّعْوَةَ فَقَدْ عَصَى اللهَ وَرَسُولَهُ.

[3102–108]. (Dar al-Salam 3350) Ibn Abi ʿUmar narrated: Sufyān narrated. He said: **‘I said to al-Zuhrī: “Abu Bakr, how about this hadith: ‘The worst kind of food is the food of the rich?’ He laughed and said: “No, it is not. The worst food is not the food of the rich”.’**

Sufyān said: ‘My father was rich, and I was alarmed by this hadith when I heard of it. I asked al-Zuhrī about it, and he said: “ʿAbd al-Raḥmān al-Aʿraj narrated to me that he heard Abu Hurayrah say: ‘The worst kind of food is the food of a feast…’”.’ He added the same as Mālik’s narration.

وَحَدَّثَنَا ابْنُ أَبِي عُمَرَ، حَدَّثَنَا سُفْيَانُ قَالَ: قُلْتُ لِلزُّهْرِيِّ يَا أَبَا بَكْرٍ، كَيْفَ هَذَا الْحَدِيثُ: شَرُّ الطَّعَامِ طَعَامُ الأَغْنِيَاءِ؟ فَضَحِكَ فَقَالَ: لَيْسَ هُوَ شَرُّ الطَّعَامِ طَعَامُ الأَغْنِيَاءِ .

قَالَ سُفْيَانُ: وَكَانَ أَبِي غَنِيًّا، فَأَفْزَعَنِي هَذَا الْحَدِيثُ حِينَ سَمِعْتُ بِهِ، فَسَأَلْتُ عَنْهُ الزُّهْرِيَّ فَقَالَ: حَدَّثَنِي عَبْدُ الرَّحْمَنِ الأَعْرَجُ أَنَّهُ سَمِعَ أَبَا هُرَيْرَةَ يَقُولُ: شَرُّ الطَّعَامِ طَعَامُ الْوَلِيمَةِ... . ثُمَّ ذَكَرَ بِمِثْلِ حَدِيثِ مَالِكٍ.

[3103–109]. (Dar al-Salam 3351) Muhammad ibn Rāfiʿ and ʿAbd ibn Ḥumayd narrated to me: from ʿAbd al-Razzāq; Maʿmar reported; from al-Zuhrī; from Saʿīd ibn al-Musayyib and from al-Aʿraj; from Abu Hurayrah. He said: **‘The worst kind of food is the food of a feast…’ the same as Mālik’s narration.**

Ibn Abi ʿUmar narrated: Sufyān narrated; from Abu al-Zināد; from al-Aʿraj; from Abu Hurayrah: **a similar text.**[x]

وَحَدَّثَنِي مُحَمَّدُ بْنُ رَافِعٍ، وَعَبْدُ بْنُ حُمَيْدٍ، عَنْ عَبْدِ الرَّزَّاقِ، أَخْبَرَنَا مَعْمَرٌ، عَنِ الزُّهْرِيِّ، عَنْ سَعِيدِ بْنِ الْـمُسَيَّبِ، وَعَنِ الأَعْرَجِ، عَنْ أَبِي هُرَيْرَةَ، قَالَ: شَرُّ الطَّعَامِ طَعَامُ الْوَلِيمَةِ... . نَحْوَ حَدِيثِ مَالِكٍ.

وَحَدَّثَنَا ابْنُ أَبِي عُمَرَ، حَدَّثَنَا سُفْيَانُ، عَنْ أَبِي الزِّنَادِ، عَنِ الأَعْرَجِ، عَنْ أَبِي هُرَيْرَةَ، نَحْوَ ذَلِكَ.

[3104–110]. (Dar al-Salam 3353) Ibn Abi ʿUmar narrated: Sufyān narrated; he said: I heard Ziyād ibn Saʿd say: I heard Thābit al-Aʿraj narrating from Abu Hurayrah that the Prophet (peace be upon him) said: **‘The worst kind of food is the food of a feast. The one who is willing to attend is refused and the one who is unwilling is invited. Whoever does not answer an invitation disobeys God and His Messenger’.**

وَحَدَّثَنَا ابْنُ أَبِي عُمَرَ، حَدَّثَنَا سُفْيَانُ قَالَ: سَمِعْتُ زِيَادَ بْنَ سَعْدٍ قَالَ: سَمِعْتُ ثَابِتًا الأَعْرَجَ، يُحَدِّثُ عَنْ أَبِي هُرَيْرَةَ، أَنَّ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: «شَرُّ الطَّعَامِ طَعَامُ الْوَلِيمَةِ: يُمْنَعُهَا مَنْ يَأْتِيهَا، وَيُدْعَى إِلَيْهَا مَنْ يَأْبَاهَا. وَمَنْ لَمْ يُجِبِ الدَّعْوَةَ فَقَدْ عَصَى اللهَ وَرَسُولَهُ».

Text Explanation

Hadith No. 3090 gives the Prophet's order: 'If any of you is invited to a wedding feast, he should go'. There is no difference of opinion regarding whether this is an order or not, but there is difference in whether the order implies a duty or a recommendation. The more correct view in our school is that it is a personal duty applicable to everyone who receives the invitation, but there are excuses that exempt a person from it, and we will mention these, God willing. The second view is that it is a collective duty, which means that if some of those invited attend, the others are exempt. The third view is that it is recommended. This is our view regarding the invitation to a wedding dinner. As for other invitations, our scholars express two views: the first is that it is the same as the wedding dinner and the other considers attendance recommended.

Qadi ʿIyāḍ reports that scholars are agreed on that attending a wedding dinner is a duty when invited, but they differ concerning other occasions. Mālik and the majority of scholars said that attendance is not a duty. Scholars of the Ẓāhirī School say that accepting an invitation is a duty, whether it is for a wedding dinner or any other. The same is expressed by some early scholars.

Reasons that make the duty or recommendation of attending an invitation inapplicable include that there may be some doubt about the lawfulness of the food; that the invitation is given exclusively to rich people; the presence of someone who is hostile to oneself; that the invitation is meant as an act of appeasement or a way to make some gain for the host or to help him in something unlawful; or that there will be some forbidden thing, such as alcoholic drinks, silk furniture, animal images, gold or silver utensils, etc. All these are valid excuses for not answering an invitation. Another reason is to apologize and the host accepts the apology. If one is invited by a *dhimmi*, attendance is not a duty according to the more correct view. If the invitation is for something that extends over three days,

attendance on the first day is a duty, on the second recommended and on the third discouraged.

Hadith No. 3092 says: ‘If any of you is invited to a wedding feast, he should go’. This may be cited as evidence in support of the view that attendance is a duty only in the case of a wedding dinner. Others rely on the hadiths that do not specify a wedding but speak of invitations generally. Moreover, the Prophet says in hadith No. 3094: ‘If any of you invites his brother, he should attend, whether it is a wedding or something similar’.

Hadith No. 3099 states: ‘When any of you is invited to a meal, he should go. He may eat if he wishes and may not if he so desires’. The next hadith mentions that ‘if one is fasting, he should pray, and if not, he should eat’. Scholars differ as to the meaning of ‘he should pray’. The majority say that it means he should pray for the hosts that God may forgive their sins and give them blessings, etc. It is also said that it means the normal prayer. Thus, when someone attends an invitation to a dinner and he is fasting, he busies himself with prayer when other guests are eating. Thus, he earns the reward for prayer and the hosts and their guests gain the blessing of the offered prayer. If one is not fasting, hadith No. 3100 instructs him to eat, while in the previous hadith he is given a choice. Scholars who make eating a duty rely on the second hadith and interpret the one offering a choice as related to the guest who is fasting. They consider the order in the later hadith as one of recommendation.

When we speak of a duty to eat, the minimum is one bite, and this redeems the duty because taking one bite is eating. A person who swears not to eat breaks his oath if he eats one bite. Moreover, when a guest refuses to eat, the host may think that he considers the food is unlawful to eat. To eat one bite removes this suspicion. As for a fasting person, there is no disagreement that he need not eat. If his fast is obligatory, eating is not permissible for him because one may not stop an obligation. If it is voluntary fasting, terminating it is permissible. Therefore, if the host finds it

difficult that a guest is fasting, it is preferable that the guest ends his voluntary fasting. Otherwise, he may continue his fast, but God knows best.

The hadith No. 3097 mentions that ‘ʿAbdullāh ibn ʿUmar used to go to invitations, whether a wedding or not. He would go even if he were fasting’. This shows that fasting is not an excuse for not attending when invited. Our scholars said that if one is invited and he is fasting, attendance is necessary in the same way as for one who is not fasting. The purpose is achieved by his attendance, even though he may not share the food. The host and the other guests may find his attendance a blessing. They may benefit by his presence, supplication or indication, and may refrain from unbecoming things they would not have refrained from if he were not present, but God knows best.

The last two hadiths speak of the worst kind of food. Muslim mentions one as reported by Abu Hurayrah and the other attributed to the Prophet. As explained earlier, in such cases, the hadith is deemed to have been said by the Prophet because its attribution to the Prophet is an addition by a reliable narrator. This hadith tells of what was going to happen in the future when people would give particular attention to rich people, inviting them and providing them with the best of food, treating them with much respect. This is the case in many situations these days. Help is to be sought from God alone.

Transmission

The chain of transmission of the last hadith, No. 3104 includes: ‘I heard Thābit al-Aʿraj narrating from Abu Hurayrah’. He is Thābit ibn ʿIyāḍ al-Aʿraj al-Aḥnaf al-Qurayshī al-ʿAdawī, the *mawlā* of ʿAbd al-Raḥmān ibn Zayd ibn al-Khaṭṭāb. It is also said that he was the *mawlā* of ʿUmar ibn ʿAbd al-Raḥmān ibn Zayd ibn al-Khaṭṭāb. Further, it is said that his name was Thābit ibn al-Aḥnaf ibn ʿIyāḍ, but God knows best.

i. Related by al-Bukhari, 5173; Abu Dāwūd, 3736.
ii. Related by Ibn Mājah, 1914.
iii. Related by Abu Dāwūd, 3738.
iv. Related by Abu Dāwūd, 3739.
v. Related by al-Tirmidhī, 1098.
vi. Related by al-Bukhari, 5179.
vii. Related by Abu Dāwūd, 3740.
viii. Related by Ibn Mājah, 1751.
ix. Related by al-Bukhari, 5177; Abu Dāwūd, 3742; Ibn Mājah, 1913.
x. This second part of the hadith is given No. 3352 in Dar al-Salam’s edition.

CHAPTER 17

RE-MARRIAGE OF A THREE-TIME DIVORCED WIFE

[3105–111]. (Dar al-Salam 3354) Abu Bakr ibn Abi Shaybah and ʿAmr al-Nāqid narrated (ʿAmr's text):[i] both said: Sufyān narrated; from al-Zuhrī; from ʿUrwah; from ʿĀ'ishah. She said: **'Rifāʿah's [former] wife came to the Prophet (peace be upon him). She said: "I was with Rifāʿah and he divorced me, making my divorce irrevocable. I married ʿAbd al-Raḥmān ibn al-Zabīr. What he has is just like the edge of a robe". God's Messenger (peace be upon him) smiled and said: "Do you want to go back to Rifāʿah? No way, until you have experienced his sweetness and he experienced yours".' She [i.e., ʿĀ'ishah added: 'Abu Bakr was with him, while Khālid was at the door awaiting permission to enter. He called out: "Abu Bakr, do you hear what this woman is saying openly at God's Messenger's?"'**

حَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، وَعَمْرٌو النَّاقِدُ (وَاللَّفْظُ لِعَمْرٍو) قَالا: حَدَّثَنَا سُفْيَانُ، عَنِ الزُّهْرِيِّ، عَنْ عُرْوَةَ، عَنْ عَائِشَةَ قَالَتْ: جَاءَتِ امْرَأَةُ رِفَاعَةَ إِلَى النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَقَالَتْ: كُنْتُ عِنْدَ رِفَاعَةَ فَطَلَّقَنِي، فَبَتَّ طَلاَقِي. فَتَزَوَّجْتُ عَبْدَ الرَّحْمَنِ بْنَ الزَّبِيرِ، وَإِنَّ مَا مَعَهُ مِثْلُ هُدْبَةِ الثَّوْبِ. فَتَبَسَّمَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَقَالَ:

«أَتُرِيدِينَ أَنْ تَرْجِعِي إِلَى رِفَاعَةَ؟ لا. حَتَّى تَذُوقِي عُسَيْلَتَهُ وَيَذُوقَ عُسَيْلَتَكِ» . قَالَتْ: وَأَبُو بَكْرٍ عِنْدَهُ، وَخَالِدٌ بِالْبَابِ يَنْتَظِرُ أَنْ يُؤْذَنَ لَهُ، فَنَادَى: يَا أَبَا بَكْرٍ أَلاَ تَسْمَعُ هَذِهِ مَا تَجْهَرُ بِهِ عِنْدَ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ؟

[3106–112]. (Dar al-Salam 3355) Abu al-Ṭāhir and Ḥarmalah ibn Yaḥyā narrated to me (Ḥarmalah’s text): Ibn Wahb (Abu al-Ṭāhir said: ‘narrated’ and Ḥarmalah said: ‘reported’); Yūnus reported to me; from Ibn Shihāb; ʿUrwah ibn al-Zabir narrated to me; that ʿĀ’ishah, the Prophet’s wife, told him that **‘Rifāʿah al-Quraẓī divorced his wife, making the divorce irrevocable. She then married ʿAbd al-Raḥmān ibn al-Zabīr. She came to the Prophet and said: “Messenger of God, I was married to Rifāʿah and he divorced me the last of three divorces. I then married ʿAbd al-Raḥmān ibn al-Zabīr. By God, what he has is no more than the edge of a robe”, and she held a small portion of her robe. God’s Messenger smiled and said: “Perhaps you want to be reunited with Rifāʿah? Definitely not, until he has experienced your sweetness and you experienced his”. Abu Bakr al-Ṣiddīq was sitting with God’s Messenger, while Khālid ibn Saʿīd ibn al-ʿĀṣ was sitting at the door of the apartment, having had no permission to enter yet. Khālid called out to Abu Bakr: “Should you not reproach this woman for what she is saying openly at God’s Messenger’s?”’**

حَدَّثَنِي أَبُو الطَّاهِرِ، وَحَرْمَلَةُ بْنُ يَحْيَى (وَاللَّفْظُ لِحَرْمَلَةَ)، (قَالَ أَبُو الطَّاهِرِ حَدَّثَنَا وَقَالَ حَرْمَلَةُ أَخْبَرَنَا) ابْنُ وَهْبٍ، أَخْبَرَنِي يُونُسُ، عَنِ ابْنِ

شِهَابٍ، حَدَّثَنِي عُرْوَةُ بْنُ الزُّبَيْرِ، أَنَّ عَائِشَةَ، زَوْجَ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ أَخْبَرَتْهُ، أَنَّ رِفَاعَةَ الْقُرَظِيَّ طَلَّقَ امْرَأَتَهُ، فَبَتَّ طَلاَقَهَا. فَتَزَوَّجَتْ بَعْدَهُ عَبْدَ الرَّحْمَنِ بْنَ الزَّبِيرِ. فَجَاءَتِ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَقَالَتْ: يَا رَسُولَ اللهِ إِنَّهَا كَانَتْ تَحْتَ رِفَاعَةَ فَطَلَّقَهَا آخِرَ ثَلاَثِ تَطْلِيقَاتٍ، فَتَزَوَّجْتُ بَعْدَهُ عَبْدَ الرَّحْمَنِ بْنَ الزَّبِيرِ، وَإِنَّهُ وَاللهِ مَا مَعَهُ إِلاَّ مِثْلُ الْهُدْبَةِ، وَأَخَذَتْ بِهُدْبَةٍ مِنْ جِلْبَابِهَا . قَالَ فَتَبَسَّمَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ ضَاحِكًا، فَقَالَ: «لَعَلَّكِ تُرِيدِينَ أَنْ تَرْجِعِي إِلَى رِفَاعَةَ؟ لا. حَتَّى يَذُوقَ عُسَيْلَتَكِ وَتَذُوقِي عُسَيْلَتَهُ» . وَأَبُو بَكْرٍ الصِّدِّيقُ جَالِسٌ عِنْدَ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، وَخَالِدُ بْنُ سَعِيدِ بْنِ الْعَاصِ جَالِسٌ بِبَابِ الْحُجْرَةِ، لَمْ يُؤْذَنْ لَهُ. قَالَ فَطَفِقَ خَالِدٌ يُنَادِي أَبَا بَكْرٍ: أَلاَ تَزْجُرُ هَذِهِ عَمَّا تَجْهَرُ بِهِ عِنْدَ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ؟

[3107–113]. (Dar al-Salam 3356) ʿAbd ibn Ḥumayd narrated:[ii] ʿAbd al-Razzāq reported; Maʿmar reported; from al-Zuhrī; from ʿUrwah; from ʿĀ’ishah; that **‘Rifāʿah al-Quraẓī divorced his wife and she married ʿAbd al-Raḥmān ibn al-Zabīr. She came to the Prophet (peace be upon him) and said: “Messenger of God, Rifāʿah has divorced me the last of three divorces…”’ the same as Yūnus’ narration.**

حَدَّثَنَا عَبْدُ بْنُ حُمَيْدٍ، أَخْبَرَنَا عَبْدُ الرَّزَّاقِ، أَخْبَرَنَا مَعْمَرٌ، عَنِ الزُّهْرِيِّ، عَنْ عُرْوَةَ، عَنْ عَائِشَةَ، أَنَّ رِفَاعَةَ الْقُرَظِيَّ طَلَّقَ امْرَأَتَهُ، فَتَزَوَّجَهَا عَبْدُ الرَّحْمَنِ بْنُ الزَّبِيرِ. فَجَاءَتِ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَقَالَتْ: يَا رَسُولَ اللهِ إِنَّ رِفَاعَةَ طَلَّقَهَا آخِرَ ثَلاَثِ تَطْلِيقَاتٍ.. . بِمِثْلِ حَدِيثِ يُونُسَ.

[3108–114]. (Dar al-Salam 3357-3358) Muhammad ibn al-ʿAlā’ al-Hamdānī narrated: Abu Usāmah narrated; from Hishām; from his father; from ʿĀ’ishah; that **‘God’s Messenger was asked about a woman married to a man, who then divorces her. She marries another man, and he divorces her before the marriage has been consummated. Is she lawful to remarry her first husband? He said: “No, until he has experienced her sweetness”.’**

حَدَّثَنَا مُحَمَّدُ بْنُ الْعَلاَءِ الْهَمْدَانِيُّ، حَدَّثَنَا أَبُو أُسَامَةَ، عَنْ هِشَامٍ، عَنْ أَبِيهِ، عَنْ عَائِشَةَ، أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ سُئِلَ عَنِ الْـمَرْأَةِ يَتَزَوَّجُهَا الرَّجُلُ فَيُطَلِّقُهَا، فَتَتَزَوَّجُ رَجُلاً فَيُطَلِّقُهَا قَبْلَ أَنْ يَدْخُلَ بِهَا، أَتَحِلُّ لِزَوْجِهَا الأَوَّلِ؟ قَالَ: «لا». حَتَّى يَذُوقَ عُسَيْلَتَهَا

Abu Bakr ibn Abi Shaybah narrated: Ibn Fuḍayl narrated [H]. Also, Abu Kurayb narrated;[iii] Abu Muʿāwiyah narrated; both from Hishām; with the same chain of transmission: **the same text.**

حَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا ابْنُ فُضَيْلٍ، ح. وَحَدَّثَنَا أَبُو كُرَيْبٍ، حَدَّثَنَا أَبُو مُعَاوِيَةَ، جَمِيعًا عَنْ هِشَامٍ، بِهَذَا الإِسْنَادِ.

[3109–115]. (Dar al-Salam 3359-3360) Abu Bakr ibn Abi Shaybah narrated:[iv] ʿAlī ibn Mushir narrated; from ʿUbaydullāh ibn ʿUmar; from al-Qāsim ibn Muhammad; from ʿĀ’ishah; she said: **‘A man divorced his wife three times. Another man married her and divorced her before the marriage was consummated. The first man wanted to re-marry her. God’s Messenger was asked about this, and he said: “No. Until the second man has experienced her sweetness as the first had done”.’**

حَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا عَلِيُّ بْنُ مُسْهِرٍ، عَنْ عُبَيْدِ اللهِ بْنِ عُمَرَ، عَنِ الْقَاسِمِ بْنِ مُحَمَّدٍ، عَنْ عَائِشَةَ قَالَتْ: طَلَّقَ رَجُلٌ امْرَأَتَهُ ثَلاَثًا، فَتَزَوَّجَهَا رَجُلٌ ثُمَّ طَلَّقَهَا قَبْلَ أَنْ يَدْخُلَ بِهَا، فَأَرَادَ زَوْجُهَا الأَوَّلُ أَنْ يَتَزَوَّجَهَا. فَسُئِلَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ عَنْ ذَلِكَ فَقَالَ: «لا». حَتَّى يَذُوقَ الآخِرُ مِنْ عُسَيْلَتِهَا مَا ذَاقَ الأَوَّلُ.

Muhammad ibn ʿAbdullāh ibn Numayr narrated: my father narrated [H]. Also, Muhammad ibn al-Muthannā narrated; Yaḥyā (meaning ibn Saʿīd) narrated; both from ʿUbaydullāh; with the same chain of transmission: **the same text**.

In Yaḥyā’s narration from ʿUbaydullāh: al-Qāsim narrated, from ʿĀ’ishah.

وَحَدَّثَنَاهُ مُحَمَّدُ بْنُ عَبْدِ اللهِ بْنِ نُمَيْرٍ، حَدَّثَنَا أَبِي ح. وَحَدَّثَنَاهُ مُحَمَّدُ بْنُ الْـمُثَنَّى، حَدَّثَنَا يَحْيَى (يَعْنِي ابْنَ سَعِيدٍ)، جَمِيعًا عَنْ عُبَيْدِ اللهِ، بِهَذَا الإِسْنَادِ . مِثْلَهُ . وَفِي حَدِيثِ يَحْيَى عَنْ عُبَيْدِ اللهِ: حَدَّثَنَا الْقَاسِمُ عَنْ عَائِشَةَ.

Text Explanation

In hadith No. 3105 the woman mentions that her first husband made her divorce irrevocable. This means that he divorced her three times. She uses the expression ‘the edge of a robe’, meaning the end that has not been sewn. The Prophet tells the woman that she could not go back to her first husband until her second husband ‘has experienced your sweetness and you experienced his’. For sweetness, the Prophet uses a reduced form of the word ‘honey’. This is a figurative expression referring to sexual intercourse, likening the orgasm to the sweetness of honey. Some suggest that he meant the semen, but this is not valid because the man’s ejaculation is not a condition.

This hadith, in its various versions, makes it clear that a woman who has been divorced three times is unlawful to remarry her former husband until she has married another man and the marriage has been consummated. She may remarry her first husband if this second husband divorces her and she observes a full waiting period. A marriage contract with another man, without the consummation of the marriage before the divorce, does not make it permissible for her to remarry her first husband. This is the view of all scholars from the time of the Prophet’s Companions and the *tābiʿīn* and subsequent generations. Only Saʿīd ibn al-Musayyib said that if the second man has a marriage contract with her and divorces her, she becomes lawful to remarry the first husband. Consummation of the marriage is not a condition according to him. His evidence is the Qur’anic verse stating, ‘until she has married another husband’. Marriage truly applies to the contract. The majority of scholars defend their view by saying that the wording of the hadith limits the general sense of the Qur’anic verse and explains its import.

Scholars said that Saʿīd might not have been aware of this hadith. *Qadi* ʿIyāḍ said: ‘None said the same as Saʿīd except a group of the Khawārij. Scholars are agreed upon the view that the insertion of the tip of the man’s

penis in the woman’s vagina is sufficient, and it is not necessary for an ejaculation to take place. Only al-Ḥasan al-Baṣrī makes the ejaculation a condition, considering it the meaning of experiencing the sweetness. The majority of scholars said that the pleasure of intercourse occurs with penetration. If the marriage contract is invalid and intercourse occurs, she remains unlawful to remarry her first husband because the man with whom the invalid marriage contract is made is not her husband.’

The hadiths mention that the Prophet smiled. This was an expression of wonder at the woman who says openly what women are normally too shy to say or because he recognized that she disliked her second husband and wanted to be reunited with the first, but God knows best.

i. Related by al-Bukhari, 2639; al-Tirmidhī, 1118; Ibn Mājah, 1932.
ii. Related by al-Bukhari, 6084; al-Nasā’ī, 3409.
iii. Related by al-Bukhari, 5265.
iv. Related by al-Bukhari, 5261; al-Nasā’ī, 3412.

CHAPTER 18

WHAT TO SAY WHEN HAVING INTERCOURSE

[3110–116]. (Dar al-Salam 3361) Yaḥyā ibn Yaḥyā and Isḥāq ibn Ibrāhīm narrated (Yaḥyā's text): both said: Jarīr reported; from Manṣūr; from Sālim; from Kurayb; from Ibn ʿAbbās. He said: **'God's Messenger (peace be upon him) said: "If someone says, when he is about to have intercourse with his wife: 'In the name of God, our Lord, keep Satan away from us and keep Satan away from what you give us', then if by God's will they are given a child, it will never be harmed by Satan".'**

حَدَّثَنَا يَحْيَى بْنُ يَحْيَى، وَإِسْحَاقُ بْنُ إِبْرَاهِيمَ (وَاللَّفْظُ لِيَحْيَى) قَالا: أَخْبَرَنَا جَرِيرٌ، عَنْ مَنْصُورٍ، عَنْ سَالِمٍ، عَنْ كُرَيْبٍ، عَنِ ابْنِ عَبَّاسٍ قَالَ: قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «لَوْ أَنَّ أَحَدَهُمْ إِذَا أَرَادَ أَنْ يَأْتِيَ أَهْلَهُ قَالَ: بِاسْمِ اللهِ، اللَّهُمَّ جَنِّبْنَا الشَّيْطَانَ، وَجَنِّبِ الشَّيْطَانَ مَا رَزَقْتَنَا، فَإِنَّهُ إِنْ يُقَدَّرْ بَيْنَهُمَا وَلَدٌ فِي ذَلِكَ لَمْ يَضُرَّهُ شَيْطَانٌ أَبَدًا».

[3111–000]. (Dar al-Salam 3362) Muhammad ibn al-Muthannā and Ibn Bashshār narrated: both said: Muhammad ibn Jaʿfar narrated; Shuʿbah narrated [H]. Also, Ibn Numayr narrated; my father narrated [H]. And ʿAbd ibn Ḥumayd narrated; ʿAbd al-Razzāq reported; all from al-Thawrī; both from Manṣūr: **the same**

meaning as Jarīr’s narration. However, in Shuʿbah’s narration, there is no mention of ‘in the name of God’, and in ʿAbd al-Razzāq’s narration from al-Thawrī ‘in the name of God’ is included. In Ibn Numayr’s narration: Manṣūr said: ‘I think he said: “in the name of God”.’

وَحَدَّثَنَا مُحَمَّدُ بْنُ الْـمُثَنَّى، وَابْنُ بَشَّارٍ قَالا: حَدَّثَنَا مُحَمَّدُ بْنُ جَعْفَرٍ، حَدَّثَنَا شُعْبَةُ، ح. وَحَدَّثَنَا ابْنُ نُمَيْرٍ، حَدَّثَنَا أَبِي ح. وَحَدَّثَنَا عَبْدُ بْنُ حُمَيْدٍ، أَخْبَرَنَا عَبْدُ الرَّزَّاقِ، جَمِيعًا عَنِ الثَّوْرِيِّ. كِلاَهُمَا عَنْ مَنْصُورٍ، بِمَعْنَى حَدِيثِ جَرِيرٍ. غَيْرَ أَنَّ شُعْبَةَ لَيْسَ فِي حَدِيثِهِ ذِكْرُ «بِاسْمِ اللهِ» . وَفِي رِوَايَةِ عَبْدِ الرَّزَّاقِ عَنِ الثَّوْرِيِّ «بِاسْمِ اللهِ». وَفِي رِوَايَةِ ابْنِ نُمَيْرٍ قَالَ مَنْصُورٌ أُرَاهُ قَالَ «بِاسْمِ اللهِ»

Text Explanation

When explaining the phrase ‘it will never be harmed by Satan’, *Qadi* ʿIyāḍ said that it means that Satan will not overpower the child. It is also said that it means that Satan does not cause the child harm at the time of its birth. This is not the same in other cases. *Qadi* ʿIyāḍ adds that no scholar has taken this hadith as covering all harm, including foul whispering and temptation.

CHAPTER 19

WHAT SORT OF INTERCOURSE

[3112–117]. (Dar al-Salam 3363) Qutaybah ibn Saʿīd, Abu Bakr ibn Abi Shaybah and ʿAmr al-Nāqid narrated (Abu Bakr's text):[i] they said: Sufyān narrated; from Ibn al-Munkadir; he heard Jābir say: **'The Jews used to say that if a man takes his wife from behind, into her vagina, the child will have a squint. Then the verse was revealed saying: "Your wives are your tilth. Go, then, to your tilth as you may desire".' (2: 223)**

حَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ، وَأَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، وَعَمْرٌو النَّاقِدُ (وَاللَّفْظُ لأَبِي بَكْرٍ) قَالُوا: حَدَّثَنَا سُفْيَانُ، عَنِ ابْنِ الْـمُنْكَدِرِ، سَمِعَ جَابِرًا يَقُولُ: كَانَتِ الْيَهُودُ تَقُولُ إِذَا أَتَى الرَّجُلُ امْرَأَتَهُ مِنْ دُبُرِهَا فِي قُبُلِهَا كَانَ الْوَلَدُ أَحْوَلَ. فَنَزَلَتْ: «نِسَاؤُكُمْ حَرْثٌ لَكُمْ فَأْتُوا حَرْثَكُمْ أَنَّى شِئْتُمْ».

[3113–118]. (Dar al-Salam 3364) Muhammad ibn Rumḥ narrated: al-Layth reported; from Ibn al-Hād; from Abu Ḥāzim; from Muhammad ibn al-Munkadir; from Jābir ibn ʿAbdullāh; that **'The Jews used to say that if a woman is approached from behind, into her vagina, and gets pregnant, her child will have a squint'. He said: 'Then the verse was revealed saying: "Your wives are your tilth. Go, then, to your tilth as you may desire".'** (2: 223)

وَحَدَّثَنَا مُحَمَّدُ بْنُ رُمْحٍ، أَخْبَرَنَا اللَّيْثُ، عَنِ ابْنِ الْهَادِ، عَنْ أَبِي حَازِمٍ، عَنْ مُحَمَّدِ بْنِ الْـمُنْكَدِرِ، عَنْ جَابِرِ بْنِ عَبْدِ اللهِ، أَنَّ يَهُودَ كَانَتْ تَقُولُ: إِذَا أُتِيَتِ الْـمَرْأَةُ مِنْ دُبُرِهَا فِي قُبُلِهَا ثُمَّ حَمَلَتْ، كَانَ وَلَدُهَا أَحْوَلَ . قَالَ: فَأُنْزِلَتْ «نِسَاؤُكُمْ حَرْثٌ لَكُمْ فَأْتُوا حَرْثَكُمْ أَنَّى شِئْتُمْ».

[3114–119]. (Dar al-Salam 3365) Qutaybah ibn Saʿīd narrated: Abu ʿAwānah narrated [H]. Also, ʿAbd al-Wārith ibn ʿAbd al-Ṣamad narrated; my father narrated to me; from my grandfather; from Ayyūb [H]. And Muhammad ibn al-Muthannā narrated; Wahb ibn Jarīr narrated; Shuʿbah narrated [H]. Further, Muhammad ibn al-Muthannā narrated; ʿAbd al-Raḥmān narrated;[ii] Sufyān narrated [H]. Also, ʿUbaydullāh ibn Saʿīd, Ḥārūn ibn ʿAbdullāh and Abu Maʿn al-Raqāshī narrated to me; they said: Wahb ibn Jarīr narrated; my father narrated; he said: I heard al-Nuʿmān ibn Rāshid narrating from al-Zuhrī [H]. And Sulaymān ibn Maʿbad narrated to me; Muʿallā ibn Asad narrated; ʿAbd al-ʿAzīz (who is ibn al-Mukhtār) narrated; from Suhayl ibn Abi Ṣāliḥ; all of these from Muhammad ibn al-Munkadir; from Jābir: **the same text.**

In al-Nuʿmān's narration from al-Zuhrī it is added: **'With her face down or up as he wishes, but this must be in one opening'.**

وَحَدَّثَنَاهُ قُتَيْبَةُ بْنُ سَعِيدٍ، حَدَّثَنَا أَبُو عَوَانَةَ، ح. وَحَدَّثَنَا عَبْدُ الْوَارِثِ بْنُ عَبْدِ الصَّمَدِ، حَدَّثَنِي أَبِي، عَنْ جَدِّي، عَنْ أَيُّوبَ، ح. وَحَدَّثَنَا مُحَمَّدُ بْنُ الْـمُثَنَّى، حَدَّثَنِي وَهْبُ بْنُ جَرِيرٍ، حَدَّثَنَا شُعْبَةُ، ح. وَحَدَّثَنَا مُحَمَّدُ بْنُ الْـمُثَنَّى، حَدَّثَنَا عَبْدُ الرَّحْمَنِ، حَدَّثَنَا سُفْيَانُ، ح. وَحَدَّثَنِي عُبَيْدُ اللهِ بْنُ سَعِيدٍ، وَهَارُونُ بْنُ عَبْدِ اللهِ، وَأَبُو مَعْنٍ الرَّقَاشِيُّ قَالُوا: حَدَّثَنَا وَهْبُ بْنُ

جَرِيرٍ، حَدَّثَنَا أَبِي قَالَ: سَمِعْتُ النُّعْمَانَ بْنَ رَاشِدٍ يُحَدِّثُ عَنِ الزُّهْرِيِّ، ح. وَحَدَّثَنِي سُلَيْمَانُ بْنُ مَعْبَدٍ، حَدَّثَنَا مُعَلَّى بْنُ أَسَدٍ، حَدَّثَنَا عَبْدُ الْعَزِيزِ – (وَهُوَ ابْنُ الْـمُخْتَارِ)، عَنْ سُهَيْلِ بْنِ أَبِي صَالِحٍ، كُلُّ هَؤُلاَءِ عَنْ مُحَمَّدِ بْنِ الْـمُنْكَدِرِ، عَنْ جَابِرٍ، بِهَذَا الْحَدِيثِ. وَزَادَ فِي حَدِيثِ النُّعْمَانِ عَنِ الزُّهْرِيِّ: إِنْ شَاءَ مُجَبِّيَةً، وَإِنْ شَاءَ غَيْرَ مُجَبِّيَةٍ، غَيْرَ أَنَّ ذَلِكَ فِي صِمَامٍ وَاحِدٍ.

Text Explanation

These hadiths mention that wives are tilth, which is figurative for planting. Therefore, sexual intercourse must occur in the place where the semen is placed in the hope that fertilization occurs leading to childbirth. The hadiths also make clear that intercourse is permissible in the woman's vagina, in whatever position one prefers, from the front, rear or with her face looking down. Needless to say, the anus is no place for tilth. Therefore, all scholars agree that anal intercourse is forbidden, whether the woman is in her menstrual period or not. There are several well-known hadiths confirming this prohibition, such as the hadith that says: 'Cursed is the one who has anal intercourse with a woman'. Our scholars have said that anal intercourse is not lawful with humans or animals in any situation, but God knows best.

i. Related by al-Tirmidhī, 2978; Ibn Mājah, 1925.
ii. Related by al-Bukhari, 4528; Abu Dāwūd, 2163.

CHAPTER 20

A WOMAN MAY NOT ABANDON HER HUSBAND'S BED

[3115–120]. (Dar al-Salam 3366) Muhammad ibn al-Muthannā and Ibn Bashshār narrated (Ibn al-Muthannā's text):[i] both said: Muhammad ibn Jaʿfar narrated; Shuʿbah narrated; he said: I heard Qatādah; narrating from Zurārah ibn Awfā; from Abu Hurayrah; from the Prophet (peace be upon him). He said: **'If a woman goes to sleep abandoning her husband's bed, the angels will curse her until the morning'.**

وَحَدَّثَنَا مُحَمَّدُ بْنُ الْـمُثَنَّى، وَابْنُ بَشَّارٍ (وَاللَّفْظُ لِابْنِ الْـمُثَنَّى) قَالا: حَدَّثَنَا مُحَمَّدُ بْنُ جَعْفَرٍ، حَدَّثَنَا شُعْبَةُ قَالَ: سَمِعْتُ قَتَادَةَ يُحَدِّثُ عَنْ زُرَارَةَ بْنِ أَوْفَى، عَنْ أَبِي هُرَيْرَةَ، عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: «إِذَا بَاتَتِ الْـمَرْأَةُ هَاجِرَةً فِرَاشَ زَوْجِهَا لَعَنَتْهَا الْـمَلاَئِكَةُ حَتَّى تُصْبِحَ».

The same text was narrated to me by Yaḥyā ibn Ḥabīb: Khālid (meaning ibn al-Ḥārith) narrated; Shuʿbah narrated; with the same chain of transmission, but he said: **'until she goes back'.**

وَحَدَّثَنِيهِ يَحْيَى بْنُ حَبِيبٍ، حَدَّثَنَا خَالِدٌ (يَعْنِي ابْنَ الْحَارِثِ)، حَدَّثَنَا شُعْبَةُ، بِهَذَا الإِسْنَادِ. وَقَالَ: «حَتَّى تَرْجِعَ».

[3116–121]. (Dar al-Salam 3367) Ibn Abi ʿUmar narrated: Marwān narrated; from Yazīd (meaning ibn Kaysān); from Abu Ḥāzim; from Abu Hurayrah. He said: **‘God’s Messenger (peace be upon him) said: “By Him who holds my soul in His hand, when any man calls his wife to her bed and she refuses, the One in Heaven will be displeased with her until he [i.e., her husband] is pleased with her”.’**

حَدَّثَنَا ابْنُ أَبِي عُمَرَ، حَدَّثَنَا مَرْوَانُ، عَنْ يَزِيدَ (يَعْنِي ابْنَ كَيْسَانَ)، عَنْ أَبِي حَازِمٍ، عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «وَالَّذِي نَفْسِي بِيَدِهِ، مَا مِنْ رَجُلٍ يَدْعُو امْرَأَتَهُ إِلَى فِرَاشِهَا، فَتَأْبَى عَلَيْهِ، إِلاَّ كَانَ الَّذِي فِي السَّمَاءِ سَاخِطًا عَلَيْهَا حَتَّى يَرْضَى عَنْهَا».

[3117–122]. (Dar al-Salam 3368) Abu Bakr ibn Abi Shaybah and Abu Kurayb narrated:[ii] both said: Abu Muʿāwiyah narrated [H]. Also, Abu Saʿīd al-Ashajj narrated to me; Wakīʿ narrated [H]. And Zuhayr ibn Ḥarb narrated to me (his text); Jarīr narrated; all from al-Aʿmash; from Abu Ḥāzim; from Abu Hurayrah. He said: **‘God’s Messenger (peace be upon him) said: “If a man calls his wife to his bed and she refuses, and he sleeps angry with her, the angels will curse her until the morning”.’**

وَحَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، وَأَبُو كُرَيْبٍ قَالا: حَدَّثَنَا أَبُو مُعَاوِيَةَ، ح. وَحَدَّثَنِي أَبُو سَعِيدٍ الأَشَجُّ، حَدَّثَنَا وَكِيعٌ، ح. وَحَدَّثَنِي زُهَيْرُ بْنُ حَرْبٍ (وَاللَّفْظُ لَهُ)، حَدَّثَنَا جَرِيرٌ، كُلُّهُمْ عَنِ الأَعْمَشِ، عَنْ أَبِي حَازِمٍ، عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «إِذَا دَعَا الرَّجُلُ

امْرَأَتَهُ إِلَى فِرَاشِهِ فَلَمْ تَأْتِهِ، فَبَاتَ غَضْبَانَ عَلَيْهَا، لَعَنَتْهَا الْـمَلاَئِكَةُ حَتَّى تُصْبِحَ».

Text Explanation

Hadith No. 3115 says: ‘If a woman goes to sleep abandoning her husband’s bed, the angels will curse her until the morning’. Another version says: ‘until she goes back’. This is clear evidence of the prohibition of a woman’s refusal to be in bed with her husband for no legitimate reason. Being in the menstruation period is not a valid reason because her husband has the right to seek the pleasure of intimacy with her above her lower garment. The hadith means that the curse applies to her until the morning when the time has lapsed, or until she repents and returns to her husband’s bed.

i. Related by al-Bukhari, 4528; Abu Dāwūd, 2163.
ii. Related by al-Bukhari, 3237 and 5193; Abu Dāwūd, 2141.

CHAPTER 21

THE PROHIBITION OF PUBLICIZING ONE'S WIFE'S SECRETS

[3118–123]. (Dar al-Salam 3369) Abu Bakr ibn Abi Shaybah narrated: Marwān ibn Muʿāwiyah narrated; from ʿUmar ibn Ḥamzah al-ʿUmarī; ʿAbd al-Raḥmān ibn Saʿd narrated; he said: I heard Abu Saʿīd al-Khudrī say: **'God's Messenger (peace be upon him) said: "One of the worst positions in God's sight on the Day of Judgement is that of a man who is intimate with his wife and she is intimate with him, then he publicizes her secrets".'**

حَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا مَرْوَانُ بْنُ مُعَاوِيَةَ، عَنْ عُمَرَ بْنِ حَمْزَةَ الْعُمَرِيِّ، حَدَّثَنَا عَبْدُ الرَّحْمَنِ بْنُ سَعْدٍ قَالَ: سَمِعْتُ أَبَا سَعِيدٍ الْخُدْرِيَّ يَقُولُ: قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «إِنَّ مِنْ أَشَرِّ النَّاسِ عِنْدَ اللهِ مَنْزِلَةً يَوْمَ الْقِيَامَةِ الرَّجُلَ يُفْضِي إِلَى امْرَأَتِهِ، وَتُفْضِي إِلَيْهِ، ثُمَّ يَنْشُرُ سِرَّهَا».

[3119–124]. (Dar al-Salam 3370) Muhammad ibn ʿAbdullāh ibn Numayr and Abu Kurayb narrated: both said: Abu Usāmah narrated; from ʿUmar ibn Ḥamzah; from ʿAbd al-Raḥmān ibn Saʿd; he said: I heard Abu Saʿīd al-Khudrī say: **'God's Messenger (peace be upon him) said: "One of the most important trusts in God's sight on the Day of Judgement is that of a man who is**

intimate with his wife and she is intimate with him, then he publicizes her secrets”.’

Ibn Numayr said: **‘The most important…’.**

وَحَدَّثَنَا مُحَمَّدُ بْنُ عَبْدِ اللهِ بْنِ نُمَيْرٍ، وَأَبُو كُرَيْبٍ قَالا: حَدَّثَنَا أَبُو أُسَامَةَ، عَنْ عُمَرَ بْنِ حَمْزَةَ، عَنْ عَبْدِ الرَّحْمَنِ بْنِ سَعْدٍ، قَالَ سَمِعْتُ أَبَا سَعِيدٍ الْخُدْرِيَّ يَقُولُ: قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «إِنَّ مِنْ أَعْظَمِ الأَمَانَةِ عِنْدَ اللهِ يَوْمَ الْقِيَامَةِ الرَّجُلَ يُفْضِي إِلَى امْرَأَتِهِ، وَتُفْضِي إِلَيْهِ، ثُمَّ يَنْشُرُ سِرَّهَا» .

وَقَالَ ابْنُ نُمَيْرٍ: «إِنَّ أَعْظَمَ».

Text Explanation

This hadith makes it clear that it is forbidden for a man to tell of what happens between him and his wife of sexual enjoyment and to describe this or what his wife says or does when they are intimate together. However, mere mention of having intercourse is reprehensible if there is no need or use of speaking about it because it is unbecoming. The Prophet (peace be upon him) said: ‘Whoever believes in God and the Last Day should either say what is good or keep silent’. If there is need, or if it leads to some benefit, such as criticizing him for abandoning her, or to support her claim that he is impotent, or some similar thing, such mention is permissible, as the Prophet said: ‘I do it with this one’. He also asked Abu Ṭalḥah: ‘Have you wedded tonight?’ He said to Jābir: ‘Gently, gently’, but God knows best.

CHAPTER 22

THE RULING ON *COITUS INTERRUPTUS*

[3120–125]. (Dar al-Salam 3371) Yaḥyā ibn Ayyūb, Qutaybah ibn Saʿīd and ʿAlī ibn Ḥujr narrated:[i] they said: Ismāʿīl ibn Jaʿfar narrated; Rabīʿah reported to me; from Muhammad ibn Yaḥyā ibn Ḥabbān; from Ibn Muḥayrīz; that he said: **‘Abu Ṣirmah and I visited Abu Saʿīd al-Khudrī. Abu Ṣirmah asked him: “Abu Saʿīd, did you hear God’s Messenger (peace be upon him) mention *coitus interruptus*?” He said: “Yes, we went with God’s Messenger (peace be upon him) when we fought al-Muṣṭalaq people, and we took honourable Arab women as slaves. We were long without our women, but we were still eager to gain their ransom. We thought of seeking our pleasure and resorting to *coitus interruptus*. Then we thought, are we to do this when God’s Messenger is with us and without asking him! We asked God’s Messenger (peace be upon him) and he said: ‘You need not do it. Every soul God has decreed to be created, up to the Day of Judgement, shall inevitably be created’.”’**

وَحَدَّثَنَا يَحْيَى بْنُ أَيُّوبَ، وَقُتَيْبَةُ بْنُ سَعِيدٍ، وَعَلِيُّ بْنُ حُجْرٍ، قَالُوا: حَدَّثَنَا إِسْمَاعِيلُ بْنُ جَعْفَرٍ، أَخْبَرَنِي رَبِيعَةُ، عَنْ مُحَمَّدِ بْنِ يَحْيَى بْنِ حَبَّانَ، عَنِ ابْنِ مُحَيْرِيزٍ أَنَّهُ قَالَ: دَخَلْتُ أَنَا وَأَبُو صِرْمَةَ عَلَى أَبِي سَعِيدٍ الْخُدْرِيِّ، فَسَأَلَهُ أَبُو صِرْمَةَ فَقَالَ: يَا أَبَا سَعِيدٍ، هَلْ سَمِعْتَ رَسُولَ اللهِ صَلَّى اللهُ

عَلَيْهِ وَسَلَّمَ يَذْكُرُ الْعَزْلَ؟ فَقَالَ: نَعَمْ. غَزَوْنَا مَعَ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ غَزْوَةَ بَلْـمُصْطَلِقِ، فَسَبَيْنَا كَرَائِمَ الْعَرَبِ. فَطَالَتْ عَلَيْنَا الْعُزْبَةُ، وَرَغِبْنَا فِي الْفِدَاءِ. فَأَرَدْنَا أَنْ نَسْتَمْتِعَ وَنَعْزِلَ. فَقُلْنَا: نَفْعَلُ وَرَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ بَيْنَ أَظْهُرِنَا لاَ نَسْأَلُهُ! فَسَأَلْنَا رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَقَالَ: «لا عَلَيْكُمْ أَنْ لا تَفْعَلُوا. مَا كَتَبَ اللهُ خَلْقَ نَسَمَةٍ هِيَ كَائِنَةٌ إِلَى يَوْمِ الْقِيَامَةِ إِلاَّ سَتَكُونُ».

[3121–126]. (Dar al-Salam 3372) Muhammad ibn al-Faraj the *mawlā* of Banī Hāshim narrated to me: Muhammad ibn al-Zibriqān narrated; Mūsā ibn ʿUqbah narrated; from Muhammad ibn Yaḥyā ibn Ḥabbān; with this same chain of transmission: the same meaning as Rabīʿah's narration, except that he said: **'God has decreed whom He shall be creating up to the Day of Judgement'.**

حَدَّثَنِي مُحَمَّدُ بْنُ الْفَرَجِ، مَوْلَى بَنِي هَاشِمٍ حَدَّثَنَا مُحَمَّدُ بْنُ الزِّبْرِقَانِ، حَدَّثَنَا مُوسَى بْنُ عُقْبَةَ، عَنْ مُحَمَّدِ بْنِ يَحْيَى بْنِ حَبَّانَ، بِهَذَا الإِسْنَادِ، فِي مَعْنَى حَدِيثِ رَبِيعَةَ. غَيْرَ أَنَّهُ قَالَ: «فَإِنَّ اللهَ كَتَبَ مَنْ هُوَ خَالِقٌ إِلَى يَوْمِ الْقِيَامَةِ».

[3122–127]. (Dar al-Salam 3373) ʿAbdullāh ibn Muhammad ibn Asmā' al-Ḍubaʿī narrated to me: Juwayriyyah narrated; from Mālik; from al-Zuhrī; from Ibn Muḥayrīz; from Abu Saʿīd al-Khudrī; that he said to him: **'We had women slaves, and we resorted to *coitus interruptus*. Then we asked God's Messenger (peace be upon him) about it. He said: "And you do it? And you**

do that? And you do that? Every soul decreed to be created up to the Day of Judgement shall be created”.’

حَدَّثَنِي عَبْدُ اللهِ بْنُ مُحَمَّدِ بْنِ أَسْمَاءَ الضُّبَعِيُّ، حَدَّثَنَا جُوَيْرِيَةُ، عَنْ مَالِكٍ، عَنِ الزُّهْرِيِّ، عَنِ ابْنِ مُحَيْرِيزٍ، عَنْ أَبِي سَعِيدٍ الْخُدْرِيِّ، أَنَّهُ أَخْبَرَهُ قَالَ: أَصَبْنَا سَبَايَا، فَكُنَّا نَعْزِلُ. ثُمَّ سَأَلْنَا رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ عَنْ ذَلِكَ، فَقَالَ لَنَا: «وَإِنَّكُمْ لَتَفْعَلُون! وَإِنَّكُمْ لَتَفْعَلُونَ! وَإِنَّكُمْ لَتَفْعَلُونَ! مَا مِنْ نَسَمَةٍ كَائِنَةٍ إِلَى يَوْمِ الْقِيَامَةِ إِلاَّ هِيَ كَائِنَةٌ».

[3123–128]. (Dar al-Salam 3374) Naṣr ibn ʿAlī al-Jahḍamī narrated: Bishr ibn al-Mufaḍḍal narrated; Shuʿbah narrated; from Anas ibn Sīrīn; from Maʿbad ibn Sīrīn; from Abu Saʿīd al-Khudrī. He said: **‘I said to him: “Did you hear it from Abu Saʿīd?” He said: “Yes, (reporting) from the Prophet (peace be upon him): ‘You need not do it. It is a matter of divine will’.”’**

وَحَدَّثَنَا نَصْرُ بْنُ عَلِيٍّ الْجَهْضَمِيُّ، حَدَّثَنَا بِشْرُ بْنُ الْـمُفَضَّلِ، حَدَّثَنَا شُعْبَةُ، عَنْ أَنَسِ بْنِ سِيرِينَ، عَنْ مَعْبَدِ بْنِ سِيرِينَ، عَنْ أَبِي سَعِيدٍ الْخُدْرِيِّ، قَالَ: قُلْتُ لَهُ سَمِعْتَهُ مِنْ أَبِي سَعِيدٍ؟ قَالَ: نَعَمْ، عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: «لا عَلَيْكُمْ أَنْ لا تَفْعَلُوا فَإِنَّمَا هُوَ الْقَدَرُ».

[3124–129]. (Dar al-Salam 3375) Muhammad ibn al-Muthannā and Ibn Bashshār narrated: both said: Muhammad ibn Jaʿfar narrated [H]. Also, Yaḥyā ibn Ḥabīb narrated; Khālid (meaning ibn al-Ḥārith) narrated [H]. And Muhammad ibn Ḥātim narrated to me; ʿAbd al-Raḥmān ibn Mahdī and Bahz narrated; they all said: Shuʿbah narrated; from Anas ibn Sīrīn; with the same chain of

transmission: **the same text, except that in their narration: ‘from the Prophet (peace be upon him): he said about *coitus interruptus*: “You need not resort to that. It is a matter of divine will”.’**

And in Bahz’s narrated: Shuʿbah said: **‘I said to him: “Did you hear it from Abu Saʿīd?” He said: “Yes”.’**

وَحَدَّثَنَا مُحَمَّدُ بْنُ الْـمُثَنَّى، وَابْنُ بَشَّارٍ، قَالا: حَدَّثَنَا مُحَمَّدُ بْنُ جَعْفَرٍ، ح. وَحَدَّثَنَا يَحْيَى بْنُ حَبِيبٍ، حَدَّثَنَا خَالِدٌ (يَعْنِي ابْنَ الْحَارِثِ) ح. وَحَدَّثَنِي مُحَمَّدُ بْنُ حَاتِمٍ، حَدَّثَنَا عَبْدُ الرَّحْمَنِ بْنُ مَهْدِيٍّ وَبَهْزٌ، قَالُوا جَمِيعًا: حَدَّثَنَا شُعْبَةُ، عَنْ أَنَسِ بْنِ سِيرِينَ، بِهَذَا الإِسْنَادِ: مِثْلَهُ، غَيْرَ أَنَّ فِي حَدِيثِهِمْ عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ فِي الْعَزْلِ: «لا عَلَيْكُمْ أَنْ لا تَفْعَلُوا ذَاكُمْ، فَإِنَّمَا هُوَ الْقَدَرُ» . وَفِي رِوَايَةِ بَهْزٍ قَالَ شُعْبَةُ: قُلْتُ لَهُ سَمِعْتَهُ مِنْ أَبِي سَعِيدٍ؟ قَالَ نَعَمْ.

[3125–130]. (Dar al-Salam 3376) Abu al-Rabīʿ al-Zahrānī and Abu Kāmil al-Jaḥdarī narrated to me (Abu Kāmil’s text):[ii] Ḥammād (who is Ibn Zayd) narrated; Ayyūb narrated; from Muhammad; from ʿAbd al-Raḥmān ibn Bishr ibn Masʿūd; attributing it to Abu Saʿīd al-Khudrī. He said: **‘The Prophet was asked about *coitus interruptus*, and he said: “You need not resort to that for it is a matter of divine will”.’**

Muhammad said: **‘His words: “You need not” is closer to an order to refrain’.**

وَحَدَّثَنِي أَبُو الرَّبِيعِ الزَّهْرَانِيُّ، وَأَبُو كَامِلٍ الْجَحْدَرِيُّ (وَاللَّفْظُ لأَبِي كَامِلٍ) قَالا: حَدَّثَنَا حَمَّادٌ (وَهُوَ ابْنُ زَيْدٍ)، حَدَّثَنَا أَيُّوبُ، عَنْ مُحَمَّدٍ، عَنْ عَبْدِ الرَّحْمَنِ بْنِ بِشْرِ بْنِ مَسْعُودٍ، رَدَّهُ إِلَى أَبِي سَعِيدٍ الْخُدْرِيِّ قَالَ: سُئِلَ النَّبِيُّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ عَنِ الْعَزْلِ، فَقَالَ: «لا عَلَيْكُمْ أَنْ لا تَفْعَلُوا ذَاكُمْ، فَإِنَّمَا هُوَ الْقَدَرُ» . قَالَ مُحَمَّدٌ: وَقَوْلُهُ «لاَ عَلَيْكُمْ» أَقْرَبُ إِلَى النَّهْيِ.

[3126–131]. (Dar al-Salam 3377–3378) Muhammad ibn al-Muthannā narrated: Muʿādh ibn Muʿādh narrated; Ibn ʿAwn narrated; from Muhammad; from ʿAbd al-Raḥmān ibn Bishr al-Anṣārī; he said attributing the hadith and ultimately attributing it to Abu Saʿīd al-Khudrī. He said: **‘*Coitus interruptus* was mentioned in the Prophet’s presence. He said: “What is that?” They said: “A man may have a wife who is breastfeeding and he may have intercourse with her, but he does not want her to get pregnant. Or a man may have a slave woman and he may have intercourse with her, but he does not want her to become pregnant”. The Prophet said: “You need not resort to that. It is a matter of divine will”.**

Ibn ʿAwn said: **‘I narrated this to al-Ḥasan. He said: “By God, this sounds like prohibition”.’**

وَحَدَّثَنَا مُحَمَّدُ بْنُ الْـمُثَنَّى، حَدَّثَنَا مُعَاذُ بْنُ مُعَاذٍ، حَدَّثَنَا ابْنُ عَوْنٍ، عَنْ مُحَمَّدٍ، عَنْ عَبْدِ الرَّحْمَنِ بْنِ بِشْرٍ الأَنْصَارِيِّ، قَالَ فَرَدَّ الْحَدِيثَ، حَتَّى رَدَّهُ إِلَى أَبِي سَعِيدٍ الْخُدْرِيِّ قَالَ: ذُكِرَ الْعَزْلُ عِنْدَ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، فَقَالَ: «وَمَا ذَاكُمْ»؟ قَالُوا: الرَّجُلُ تَكُونُ لَهُ الْـمَرْأَةُ تُرْضِعُ،

فَيُصِيبُ مِنْهَا، وَيَكْرَهُ أَنْ تَحْمِلَ مِنْهُ. وَالرَّجُلُ تَكُونُ لَهُ الأَمَةُ، فَيُصِيبُ مِنْهَا وَيَكْرَهُ أَنْ تَحْمِلَ مِنْهُ . قَالَ: «فَلاَ عَلَيْكُمْ أَنْ لاَ تَفْعَلُوا ذَاكُمْ، فَإِنَّمَا هُوَ الْقَدَرُ» .

قَالَ ابْنُ عَوْنٍ: فَحَدَّثْتُ بِهِ الْحَسَنَ فَقَالَ: وَاللهِ لَكَأَنَّ هَذَا زَجْرٌ.

Ḥajjāj ibn al-Shāʿir narrated to me: Sulaymān ibn Ḥarb narrated; Ḥammād ibn Zayd narrated; from Ibn ʿAwn; he said: I narrated to Muhammad from Ibrāhīm the hadith narrated by ʿAbd al-Raḥmān ibn Bishr (meaning the hadith mentioning *coitus interruptus*) and he said: ʿAbd al-Raḥmān ibn Bishr narrated it to me.

وَحَدَّثَنِي حَجَّاجُ بْنُ الشَّاعِرِ، حَدَّثَنَا سُلَيْمَانُ بْنُ حَرْبٍ، حَدَّثَنَا حَمَّادُ بْنُ زَيْدٍ، عَنِ ابْنِ عَوْنٍ قَالَ: حَدَّثْتُ مُحَمَّدًا، عَنْ إِبْرَاهِيمَ، بِحَدِيثِ عَبْدِ الرَّحْمَنِ بْنِ بِشْرٍ - يَعْنِي حَدِيثَ الْعَزْلِ – فَقَالَ: إِيَّايَ حَدَّثَهُ عَبْدُ الرَّحْمَنِ بْنُ بِشْرٍ.

[3127–000]. (Dar al-Salam 3379) Muhammad ibn al-Muthannā narrated; ʿAbd al-Aʿlā narrated; Hishām narrated; from Muhammad; from Maʿbad ibn Sīrī. He said: **‘We said to Abu Saʿīd: “Did you hear God’s Messenger (peace be upon him) say something about *coitus interruptus*?” He said: “Yes…”’ and he narrated the hadith in the same meaning as Ibn ʿAwn’s narration, up to his saying ‘divine will’.**

حَدَّثَنَا مُحَمَّدُ بْنُ الْـمُثَنَّى، حَدَّثَنَا عَبْدُ الأَعْلَى، حَدَّثَنَا هِشَامٌ، عَنْ مُحَمَّدٍ، عَنْ مَعْبَدِ بْنِ سِيرِينَ قَالَ: قُلْنَا لأَبِي سَعِيدٍ: هَلْ سَمِعْتَ رَسُولَ اللهِ

صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ يَذْكُرُ فِي الْعَزْلِ شَيْئًا؟ قَالَ نَعَمْ . وَسَاقَ الْحَدِيثَ بِمَعْنَى حَدِيثِ ابْنِ عَوْنٍ إِلَى قَوْلِهِ: «الْقَدَرُ».

[3128–132]. (Dar al-Salam 3380) ʿUbaydullāh ibn ʿUmar al-Qawārīrī and Ahmad ibn ʿAbdah narrated:[iii] Sufyān ibn ʿUyaynah (Ibn ʿAbdah said: ‘reported’ and ʿUbaydullāh said: ‘narrated’); from Ibn Abi Nujayḥ; from Mujāhid; from Qazaʿah; from Abu Saʿīd al-Khudrī. He said: ***‘Coitus interruptus* was mentioned in God’s Messenger’s presence, and he said: “Why would any of you do that? (He did not say: none of you should do that.) Whatever soul is to be created God is certain to create it”.’**

حَدَّثَنَا عُبَيْدُ اللهِ بْنُ عُمَرَ الْقَوَارِيرِيُّ، وَأَحْمَدُ بْنُ عَبْدَةَ، (قَالَ ابْنُ عَبْدَةَ أَخْبَرَنَا وَقَالَ عُبَيْدُ اللهِ حَدَّثَنَا) سُفْيَانُ بْنُ عُيَيْنَةَ، عَنِ ابْنِ أَبِي نَجِيحٍ، عَنْ مُجَاهِدٍ، عَنْ قَزَعَةَ، عَنْ أَبِي سَعِيدٍ الْخُدْرِيِّ قَالَ: ذُكِرَ الْعَزْلُ عِنْدَ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَقَالَ: «وَلِمَ يَفْعَلُ ذَلِكَ أَحَدُكُمْ - وَلَمْ يَقُلْ فَلاَ يَفْعَلْ ذَلِكَ أَحَدُكُمْ - فَإِنَّهُ لَيْسَتْ نَفْسٌ مَخْلُوقَةٌ إِلاَّ اللهُ خَالِقُهَا».

[3129–133]. (Dar al-Salam 3381-3382) Ḥārūn ibn Saʿīd al-Aylī narrated to me: ʿAbdullāh ibn Wahb narrated; Muʿāwiyah (meaning Ibn Ṣāliḥ) reported to me; from ʿAlī ibn Abi Ṭalḥah; from Abu al-Waddāk; from Abu Saʿīd al-Khudrī; he heard him say: **‘God’s Messenger (peace be upon him) was asked about *coitus interruptus*. He said: “Not all fluid leads to conception. If God wills to create something, nothing will stop Him”.’**

حَدَّثَنِي هَارُونُ بْنُ سَعِيدٍ الأَيْلِيُّ، حَدَّثَنَا عَبْدُ اللهِ بْنُ وَهْبٍ، أَخْبَرَنِي مُعَاوِيَةُ (يَعْنِي ابْنَ صَالِحٍ)، عَنْ عَلِيِّ بْنِ أَبِي طَلْحَةَ، عَنْ أَبِي الْوَدَّاكِ، عَنْ أَبِي سَعِيدٍ الْخُدْرِيِّ، سَمِعَهُ يَقُولُ: سُئِلَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ عَنِ الْعَزْلِ فَقَالَ: «مَا مِنْ كُلِّ الْـمَاءِ يَكُونُ الْوَلَدُ. وَإِذَا أَرَادَ اللهُ خَلْقَ شَيْءٍ لَمْ يَمْنَعْهُ شَيْءٌ».

Ahmad ibn al-Mundhir al-Baṣrī narrated to me: Zayd ibn Ḥubāb narrated; Muʿāwiyah narrated; ʿAlī ibn Abi Ṭalḥah al-Hāshimī reported to me; from Abu al-Waddāk; from Abu Saʿīd al-Khudrī; from the Prophet: **the same text.**

حَدَّثَنِي أَحْمَدُ بْنُ الْـمُنْذِرِ الْبَصْرِيُّ، حَدَّثَنَا زَيْدُ بْنُ حُبَابٍ، حَدَّثَنَا مُعَاوِيَةُ، أَخْبَرَنِي عَلِيُّ بْنُ أَبِي طَلْحَةَ الْهَاشِمِيُّ، عَنْ أَبِي الْوَدَّاكِ، عَنْ أَبِي سَعِيدٍ الْخُدْرِيِّ، عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ بِمِثْلِهِ.

[3130–134]. (Dar al-Salam 3383) Ahmad ibn ʿAbdullāh ibn Yūnus narrated:[iv] Zuhayr narrated; Abu al-Zubayr reported; from Jābir; **that ‘A man came to God’s Messenger (peace be upon him) and said: “I have a slave girl who serves us and brings our water. I sleep with her, and I would dislike her to become pregnant”. The Prophet said: “You may resort to *coitus interruptus* if you wish, but she shall have whatever is decreed for her”. The man was absent for some time and then came back and said that the girl was pregnant. The Prophet said: “I told you that she shall have whatever is decreed for her”.’**

حَدَّثَنَا أَحْمَدُ بْنُ عَبْدِ اللهِ بْنِ يُونُسَ، حَدَّثَنَا زُهَيْرٌ، أَخْبَرَنَا أَبُو الزُّبَيْرِ، عَنْ جَابِرٍ، أَنَّ رَجُلاً أَتَى رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَقَالَ: إِنَّ لِي جَارِيَةً هِيَ خَادِمُنَا وَسَانِيَتُنَا، وَأَنَا أَطُوفُ عَلَيْهَا، وَأَنَا أَكْرَهُ أَنْ تَحْمِلَ . فَقَالَ: «اعْزِلْ عَنْهَا إِنْ شِئْتَ، فَإِنَّهُ سَيَأْتِيهَا مَا قُدِّرَ لَهَا». فَلَبِثَ الرَّجُلُ، ثُمَّ أَتَاهُ فَقَالَ إِنَّ الْجَارِيَةَ قَدْ حَبِلَتْ . فَقَالَ: «قَدْ أَخْبَرْتُكَ أَنَّهُ سَيَأْتِيهَا مَا قُدِّرَ لَهَا».

[3131–135]. (Dar al-Salam 3384-3385) Saʿīd ibn ʿAmr al-Ashʿathī narrated: Sufyān ibn ʿUyaynah narrated; from Saʿīd ibn Ḥassān; from ʿUrwah ibn ʿIyāḍ; from Jābir ibn ʿAbdullāh. He said: **‘A man asked the Prophet (peace be upon him) saying: “I have a slave girl and I resort to *coitus interruptus*”. God’s Messenger (peace be upon him) said: “That will not prevent something God wills”. The man came later and said: “Messenger of God, the girl I told you about is pregnant”. The Prophet said: “I am God’s servant and Messenger”.’**

حَدَّثَنَا سَعِيدُ بْنُ عَمْرٍو الأَشْعَثِيُّ، حَدَّثَنَا سُفْيَانُ بْنُ عُيَيْنَةَ، عَنْ سَعِيدِ بْنِ حَسَّانَ، عَنْ عُرْوَةَ بْنِ عِيَاضٍ، عَنْ جَابِرِ بْنِ عَبْدِ اللهِ، قَالَ: سَأَلَ رَجُلٌ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَقَالَ: إِنَّ عِنْدِي جَارِيَةً لِي، وَأَنَا أَعْزِلُ عَنْهَا . فَقَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «إِنَّ ذَلِكَ لَنْ يَمْنَعَ شَيْئًا أَرَادَهُ اللهُ». قَالَ: فَجَاءَ الرَّجُلُ فَقَالَ: يَا رَسُولَ اللهِ إِنَّ الْجَارِيَةَ الَّتِي كُنْتُ ذَكَرْتُهَا لَكَ حَمَلَتْ . فَقَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «أَنَا عَبْدُ اللهِ وَرَسُولُهُ».

Ḥajjāj ibn al-Shāʿir narrated: Abu Ahmad al-Zubayrī narrated; Saʿīd ibn Ḥassān, the tracer of the people of Makkah, narrated; ʿUrwah ibn ʿIyāḍ ibn ʿAdiy ibn al-Khiyār al-Nawfalī reported to me; from Jābir ibn ʿAbdullāh. He said: **‘A man came to the Prophet…’ the same meaning as Sufyān’s narration.**

وَحَدَّثَنَا حَجَّاجُ بْنُ الشَّاعِرِ، حَدَّثَنَا أَبُو أَحْمَدَ الزُّبَيْرِيُّ، حَدَّثَنَا سَعِيدُ بْنُ حَسَّانَ، قَاصُّ أَهْلِ مَكَّةَ، أَخْبَرَنِي عُرْوَةُ بْنُ عِيَاضِ بْنِ عَدِيِّ بْنِ الْخِيَارِ النَّوْفَلِيُّ، عَنْ جَابِرِ بْنِ عَبْدِ اللهِ قَالَ: جَاءَ رَجُلٌ إِلَى النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ... بِمَعْنَى حَدِيثِ سُفْيَانَ.

[3132–136]. (Dar al-Salam 3386) Abu Bakr ibn Abi Shaybah and Isḥāq ibn Ibrāhīm narrated:[v] Sufyān (Isḥāq said: ‘reported’ and Abu Bakr said: ‘narrated’); from ʿAmr; from ʿAṭā’; from Jābir. He said: **‘We used to resort to *coitus interruptus* when the Qur’an was being revealed’.**

Isḥāq added: **‘Sufyān said: “Had it been something to be prohibited, the Qur’an would have forbidden us that”.’**

حَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، وَإِسْحَاقُ بْنُ إِبْرَاهِيمَ، (قَالَ إِسْحَاقُ أَخْبَرَنَا وَقَالَ أَبُو بَكْرٍ حَدَّثَنَا) سُفْيَانُ، عَنْ عَمْرٍو، عَنْ عَطَاءٍ، عَنْ جَابِرٍ، قَالَ: كُنَّا نَعْزِلُ وَالْقُرْآنُ يَنْزِلُ . زَادَ إِسْحَاقُ: قَالَ سُفْيَانُ: لَوْ كَانَ شَيْئًا يُنْهَى عَنْهُ لَنَهَانَا عَنْهُ الْقُرْآنُ.

[3133–137]. (Dar al-Salam 3387) Salamah ibn Shabīb narrated to me: al-Ḥasan ibn Aʿyan narrated; Maʿqil narrated; from ʿAṭā’. He

said: **‘I heard Jābir say: “We used to practise *coitus interruptus* during God’s Messenger’s lifetime”.’**

وَحَدَّثَنِي سَلَمَةُ بْنُ شَبِيبٍ، حَدَّثَنَا الْحَسَنُ بْنُ أَعْيَنَ، حَدَّثَنَا مَعْقِلٌ، عَنْ عَطَاءٍ، قَالَ سَمِعْتُ جَابِرًا يَقُولُ: لَقَدْ كُنَّا نَعْزِلُ عَلَى عَهْدِ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ.

[3134–138]. (Dar al-Salam 3388) Abu Ghassān al-Mismaʿī narrated to me: Muʿādh (meaning ibn Hishām) narrated; my father narrated to me; from Abu al-Zubayr; from Jābir. He said: **‘We used to practise *coitus interruptus* during God’s Mes-senger’s lifetime. The Prophet was informed and he did not forbid us’.**

وَحَدَّثَنِي أَبُو غَسَّانَ الْمِسْمَعِيُّ، حَدَّثَنَا مُعَاذٌ (يَعْنِي ابْنَ هِشَامٍ)، حَدَّثَنِي أَبِي، عَنْ أَبِي الزُّبَيْرِ، عَنْ جَابِرٍ قَالَ: كُنَّا نَعْزِلُ عَلَى عَهْدِ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، فَبَلَغَ ذَلِكَ نَبِيَّ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، فَلَمْ يَنْهَنَا.

Text Explanation

Coitus interruptus is a practice involving sexual intercourse and when the man feels close to ejaculation, he withdraws and ejaculates outside. According to our school, it is reprehensible in every situation and with every woman, whether she agrees or not, because it is one way of preventing conception. Hence, it is called in a different hadith ‘subtle burial’. It prevents conception and childbirth just as burial means killing the born child. As for its prohibition, our scholars say that it is not forbidden when it is practised with one’s slave woman, or one’s wife who is a slave, whether they agree to this or not. This is because begetting a child by either has adverse effects for the man. If the woman is a slave and she gives birth to a child, her status becomes that of ‘mother of child’ and she cannot be sold.[vi] If the slave is the man’s wife, her child is also considered a slave.

If *coitus interruptus* is practised with one’s free wife and she agrees to it, it is not forbidden. If she does not agree, two views are expressed, and the more correct one is that it is not forbidden either. The hadiths in this chapter are reconciled on the basis that where a negative order is given, it means the practice is only discouraged, and where permission is given, it means that the practice is not forbidden, but does not negate discouragement.

This is a brief summary of the rulings pertaining to this chapter and how its hadiths are reconciled. Early scholars held different views along the same lines as we have outlined regarding the views of our school. Those who prohibit *coitus interruptus* if a free wife does not agree to it said that it has an adverse effect on the woman. Therefore, her agreement is necessary.

In hadith No. 3120, Abu Saʿīd mentions the feelings of the Prophet’s Companions when they fought against al-Muṣṭalaq tribe: ‘We were long without our women, but we were still eager to gain their ransom’. He meant that they felt the sexual urge but they feared that the slaves they had might become pregnant. Thus, the woman would become ‘mother of child’ and

could not be sold or bring about a ransom. This means that this was a well-known practice.

As they thought of *coitus interruptus* as a way out, the Prophet said to them: ‘You need not do it. Every soul God has decreed to be created, up to the Day of Judgement, shall inevitably be created’. What he meant is that they would not be affected either way. If God wills to create a child, His will is done whether they used this method or not. If He has not willed to create a child, it will not happen. This means that the method itself would be rendered ineffective.

This hadith provides evidence in support of the view of the great majority of scholars that Arabs may be enslaved when they are taken captive in war, in the same way as non-Arabs. In other words, if they were unbelievers, their enslavement was permissible. The al-Muṣṭalaq tribe was an Arab tribe, a branch of the major tribe of Khuzāʿah. The Muslims took them captive, consorted with their women who were taken slaves and whereby their sale was considered permissible. This is agreed by Mālik and al-Shāfiʿī in his later and correct ruling, as well as the majority of scholars. Abu Ḥanīfah and al-Shāfiʿī in his earlier ruling said that Arabs might not be enslaved because of their honourable descent, but God knows best.

Hadith No. 3131 mentions the case of the man who mentioned his slave woman and his resort to *coitus interruptus*. The Prophet told him that he could do so if he wished but it would not prevent the creation of what God wills to create. The man later told the Prophet that she was pregnant. This shows that the child would be affiliated to his father despite the practice of contraception. The hadith makes it clear that when a man admits sleeping with his slave woman, her children are attributed to him, unless he claims to have ensured that she was not pregnant after he had sex with her. This is the view of our school and Mālik.

When the man tells the Prophet that his slave woman had fallen pregnant, the Prophet said: ‘I am God’s servant and Messenger’. This

means that what I tell you is the truth. So, take it as such, because it will certainly prove to be correct.

i. Related by al-Bukhari, 2229, 2542, 4138, 7409, 6603 and 5210; Abu Dāwūd, 2172.
ii. Related by al-Nasā'ī, 3327.
iii. Related by al-Bukhari, 7409; Abu Dāwūd, 2170; al-Tirmidhī, 1138.
iv. Related by Abu Dāwūd, 2173.
v. Related by al-Bukhari, 5208; al-Tirmidhī, 1137; Ibn Mājah, 1927.
vi. According to Islamic rules on slaves, a 'mother of child' cannot be sold. When her master dies, she is considered a free woman. This applied when slavery was a universal practice. Now that slavery is abolished, these rules are of historical significance.

CHAPTER 23

NO INTERCOURSE WITH A PREGNANT SLAVE

[3135–139]. (Dar al-Salam 3389-3390) Muhammad ibn al-Muthannā narrated to me: Muhammad ibn Jaʿfar narrated; Shuʿbah narrated; from Yazīd ibn Khumayr; he said: I heard ʿAbd al-Raḥmān ibn Jubayr narrating from his father; from Abu al-Dardā’; from the Prophet (peace be upon him) that **‘He saw a heavily pregnant woman at the entrance of a tent. He said: “Maybe the man wants to have intercourse with her?” They said: “Yes”. The Prophet said: “I was about to curse him in a way that the curse goes with him to his grave. How can he give him inheritance when it is unlawful to him? How can he put him to service when it is unlawful to him?”’**

وَحَدَّثَنِي مُحَمَّدُ بْنُ الْـمُثَنَّى، حَدَّثَنَا مُحَمَّدُ بْنُ جَعْفَرٍ، حَدَّثَنَا شُعْبَةُ، عَنْ يَزِيدَ بْنِ خُمَيْرٍ، قَالَ سَمِعْتُ عَبْدَ الرَّحْمَنِ بْنَ جُبَيْرٍ، يُحَدِّثُ عَنْ أَبِيهِ، عَنْ أَبِي الدَّرْدَاءِ، عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، أَنَّهُ أَتَى بِامْرَأَةٍ مُجِحٍّ عَلَى بَابِ فُسْطَاطٍ، فَقَالَ: «لَعَلَّهُ يُرِيدُ أَنْ يُلِمَّ بِهَا». فَقَالُوا نَعَمْ . فَقَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «لَقَدْ هَمَمْتُ أَنْ أَلْعَنَهُ لَعْنًا يَدْخُلُ مَعَهُ قَبْرَهُ. كَيْفَ يُوَرِّثُهُ وَهُوَ لاَ يَحِلُّ لَهُ؟ كَيْفَ يَسْتَخْدِمُهُ وَهُوَ لاَ يَحِلُّ لَهُ»؟

Abu Bakr ibn Abi Shaybah narrated: Yazīd ibn Ḥārūn nar-rated [H]. Also, Muhammad ibn Bashshār narrated; Abu Dāwūd narrated; both from Shuʿbah; with the same chain of transmission: **the same text.**

وَحَدَّثَنَاهُ أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا يَزِيدُ بْنُ هَارُونَ، ح. وَحَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ، حَدَّثَنَا أَبُو دَاوُدَ، جَمِيعًا عَنْ شُعْبَةَ، فِي هَذَا الإِسْنَادِ.

Text Explanation

The woman in this hadith was a pregnant slave, and the rule applicable to her is that she is unlawful to have sex with until she has given birth. The Prophet says: ‘How can he give him inheritance when it is unlawful to him? How can he put him to service when it is unlawful to him?’ This means that the birth may be delayed for six months, if her pregnancy was by the man who took her captive, but it may also be by the man preceding him. Thus, if the pregnancy was by the soldier who took her captive, the child, when born, would be his child and both father and son inherit each other. On the other hand, if the pregnancy was by the other man, the soldier and the child are unrelated and would not inherit each other. To consider the child an heir means that it takes a share from the other heirs, and this is unlawful. On the other hand, the soldier may make the child a slave he owns, but this is not open to him if the child was his own. This confused case is possible if the woman gives birth at a time when either man might have been the father. Hence, the soldier who took her captive must not have intercourse with her until she has given birth. This is the obvious meaning of the hadith.

Qadi ʿIyāḍ said: ‘This may be a reference to the notion that the embryo may grow by the soldier’s semen, and thus the soldier becomes a partner in its parenthood, thereby he cannot put the child into his service. This is similar to the other hadith which says: “Whoever believes in God and the Last Day must not give someone else’s child his own fluid”.’ What *Qadi* ʿIyāḍ says in this instance is flimsy or false. How could inheritance be fitted with such an interpretation? The right explanation is what we have said, but God knows best.

CHAPTER 24

INTERCOURSE WITH A BREASTFEEDING WIFE

[3136–140]. (Dar al-Salam 3391) Khalaf ibn Hishām narrated:[i] Mālik ibn Anas narrated [H]. Also, Yaḥyā ibn Yaḥyā narrated (his text); he said: I read out to Mālik; from Muhammad ibn ʿAbd al-Raḥmān ibn Nawfal; from ʿUrwah; from ʿĀ’ishah; from Judāmah bint Wahb al-Asadiyyah; that she heard God’s Messenger (peace be upon him) say: **‘I intended to prohibit intercourse with one’s breastfeeding wife, but then I remembered that the Byzantines and the Persians do it and it does not harm their children’.**

Muslim said: Khalaf said: ‘Judhāmah al-Asadiyyah’, but her correct name is as mentioned by Yaḥyā, with a ‘d’, [i.e., not ‘dh’].

وَحَدَّثَنَا خَلَفُ بْنُ هِشَامٍ، حَدَّثَنَا مَالِكُ بْنُ أَنَسٍ، ح. وَحَدَّثَنَا يَحْيَى بْنُ يَحْيَى (وَاللَّفْظُ لَهُ) قَالَ: قَرَأْتُ عَلَى مَالِكٍ، عَنْ مُحَمَّدِ بْنِ عَبْدِ الرَّحْمَنِ بْنِ نَوْفَلٍ، عَنْ عُرْوَةَ، عَنْ عَائِشَةَ، عَنْ جُدَامَةَ بِنْتِ وَهْبٍ الأَسَدِيَّةِ، أَنَّهَا سَمِعَتْ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ يَقُولُ: «لَقَدْ هَمَمْتُ أَنْ أَنْهَى عَنِ الْغِيلَةِ، حَتَّى ذَكَرْتُ أَنَّ الرُّومَ وَفَارِسَ يَصْنَعُونَ ذَلِكَ فَلاَ يَضُرُّ أَوْلاَدَهُمْ» . قَالَ مُسْلِمٌ: وَأَمَّا خَلَفٌ فَقَالَ عَنْ جُذَامَةَ الأَسَدِيَّةِ . وَالصَّحِيحُ مَا قَالَهُ يَحْيَى بِالدَّالِ.

[3137–141]. (Dar al-Salam 3392) ʿUbaydullāh ibn Saʿīd and Muhammad ibn Abi ʿUmar narrated: both said: the reciter narrated; Saʿīd ibn Abi Ayyūb narrated; Abu al-Aswad narrated to me; from ʿUrwah; from ʿĀ’ishah; from Judāmah bint Wahb, ʿUkkāshah’s sister. She said: **‘I attended God’s Messenger (peace be upon him) as he was with some people. He said: “I was about to prohibit intercourse with one’s breastfeeding wife, but I looked at the Byzantines and the Persians. They do that to their children, and it does not harm their children at all”. They then asked him about *coitus interruptus*. God’s Messenger (peace be upon him) said: “That is subtle burial”.’**

ʿUbaydullāh added in his narration from the reciter: **‘That is when the girl, buried alive, is asked’.** (81: 8)

حَدَّثَنَا عُبَيْدُ اللهِ بْنُ سَعِيدٍ، وَمُحَمَّدُ بْنُ أَبِي عُمَرَ، قَالا: حَدَّثَنَا الْـمُقْرِئُ، حَدَّثَنَا سَعِيدُ بْنُ أَبِي أَيُّوبَ، حَدَّثَنِي أَبُو الأَسْوَدِ، عَنْ عُرْوَةَ، عَنْ عَائِشَةَ، عَنْ جُدَامَةَ بِنْتِ وَهْبٍ، أُخْتِ عُكَّاشَةَ، قَالَتْ: حَضَرْتُ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فِي أُنَاسٍ وَهُوَ يَقُولُ: «لَقَدْ هَمَمْتُ أَنْ أَنْهَى عَنِ الْغِيلَةِ، فَنَظَرْتُ فِي الرُّومِ وَفَارِسَ فَإِذَا هُمْ يُغِيلُونَ أَوْلاَدَهُمْ، فَلاَ يَضُرُّ أَوْلاَدَهُمْ ذَلِكَ شَيْئًا» . ثُمَّ سَأَلُوهُ عَنِ الْعَزْلِ فَقَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «ذَلِكَ الْوَأْدُ الْخَفِيُّ».

زَادَ عُبَيْدُ اللهِ فِي حَدِيثِهِ عَنِ الْـمُقْرِئِ وَهْيَ: «وَإِذَا الْـمَوْءُودَةُ سُئِلَتْ».

[3138–142]. (Dar al-Salam 3393) Abu Bakr ibn Abi Shaybah narrated: Yaḥyā ibn Isḥāq narrated; Yaḥyā ibn Ayyūb narrated; from Muhammad ibn ʿAbd al-Raḥmān ibn Nawfal al-Qurashī; from

ʿUrwah; from ʿĀ’ishah; from Judāmah bint Wahb al-Asadiyyah; that she said: **‘I heard God’s Messenger (peace be upon him)…’ adding the same as Saʿīd ibn Abi Ayyūb’s narration about *coitus interruptus* and intercourse with a breastfeeding wife, but he said: ‘*al-ghiyāl*’.**

وَحَدَّثَنَاهُ أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا يَحْيَى بْنُ إِسْحَاقَ، حَدَّثَنَا يَحْيَى بْنُ أَيُّوبَ، عَنْ مُحَمَّدِ بْنِ عَبْدِ الرَّحْمَنِ بْنِ نَوْفَلٍ الْقُرَشِيِّ، عَنْ عُرْوَةَ، عَنْ عَائِشَةَ، عَنْ جُدَامَةَ بِنْتِ وَهْبٍ الأَسَدِيَّةِ، أَنَّهَا قَالَتْ: سَمِعْتُ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ.. . فَذَكَرَ بِمِثْلِ حَدِيثِ سَعِيدِ بْنِ أَبِي أَيُّوبَ فِي الْعَزْلِ وَالْغِيلَةِ . غَيْرَ أَنَّهُ قَالَ «الْغِيَالِ».

[3139–143]. (Dar al-Salam 3394) Muhammad ibn ʿAbdullāh ibn Numayr and Zuhayr ibn Ḥarb narrated to me (Ibn Numayr’s text): both said: ʿAbdullāh ibn Yazīd al-Maqburī narrated; Ḥaywah narrated; ʿAyyāsh ibn ʿAbbās narrated to me; that Abu al-Naḍr narrated to him; from ʿĀmir ibn Saʿd narrated to him; that Usāmah ibn Zayd informed his [i.e., ʿĀmir’s] father Saʿd ibn Abi Waqqāṣ; that ‘**A man came to the Prophet and said that he practised *coitus interruptus* when he was with his wife. God’s Messenger asked him: “Why do you do that?” He said: “I fear for her child, or children”. God’s Messenger said: “Had that been harmful, it would have harmed the Byzantines and the Persians”.’**

Zuhayr said in his narration: **‘If for this reason, then do not. It did not harm either the Byzantines or the Persians’.**

حَدَّثَنِي مُحَمَّدُ بْنُ عَبْدِ اللهِ بْنِ نُمَيْرٍ، وَزُهَيْرُ بْنُ حَرْبٍ (وَاللَّفْظُ لاِبْنِ نُمَيْرٍ) قَالا: حَدَّثَنَا عَبْدُ اللهِ بْنُ يَزِيدَ الْـمَقْبُرِيُّ، حَدَّثَنَا حَيْوَةُ، حَدَّثَنِي عَيَّاشُ بْنُ عَبَّاسٍ، أَنَّ أَبَا النَّضْرِ حَدَّثَهُ عَنْ عَامِرِ بْنِ سَعْدٍ، أَنَّ أُسَامَةَ بْنَ زَيْدٍ أَخْبَرَ وَالِدَهُ، سَعْدَ بْنَ أَبِي وَقَّاصٍ، أَنَّ رَجُلاً جَاءَ إِلَى رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَقَالَ: إِنِّي أَعْزِلُ عَنِ امْرَأَتِي . فَقَالَ لَهُ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «لِمَ تَفْعَلُ ذَلِكَ»؟ فَقَالَ الرَّجُلُ: أُشْفِقُ عَلَى وَلَدِهَا أَوْ عَلَى أَوْلاَدِهَا . فَقَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «لَوْ كَانَ ذَلِكَ ضَارًّا ضَرَّ فَارِسَ وَالرُّومَ». وَقَالَ زُهَيْرٌ فِي رِوَايَتِهِ: «إِنْ كَانَ لِذَلِكَ فَلا. مَا ضَارَ ذَلِكَ فَارِسَ وَلاَ الرُّومَ.

Text Explanation

These hadiths speak of *ghīlah* and that the Prophet intended to prohibit it, but then considered that other communities did it with no adverse effects. Scholars differ as to the meaning of this word. In his *al-Muwaṭṭa'*, Mālik said it means having intercourse with one's wife during the time she is breastfeeding. This explanation is also stated by al-Aṣmaʿī and other linguists. Ibn al-Sukayt said that it means that a woman continues to breastfeed when she is pregnant.

Scholars have said that the reason for the Prophet's earlier intention to prohibit such intercourse was that he feared that it might harm the suckling baby. Medical men used to say that the milk became harmful, and the Arabs disliked this. The hadiths show that having intercourse with one's wife during any breastfeeding period is permissible because the Prophet did not prohibit it, and he explained why he did not. The hadith also shows that *ijtihad* was open to the Prophet (peace be upon him), and this is agreed upon by the majority of scholars of legal theory. Some say that it was not open to him because he was supported by revelations, but the first view is the correct one.

In hadith No. 3137, the Prophet was asked about *coitus interruptus*, and he described it as 'subtle burial'. The narrator adds by way of explanation the verse: 'When the girl, buried alive, is asked'. (81: 8) [The next verse, not mentioned in the hadith, is 'for what offence was she killed'.] In his answer the Prophet used the word *wa'd*, which was the practice of the Arabs before Islam, when they buried their young girls alive. They did so for fear of poverty as a girl could not earn her own living. They might also have done it for fear that she might bring shame on her family and tribe. We explained in the previous chapter why this is called *wa'd*, stating that it has a similar effect, i.e., preventing the continuity of life.

Transmission

The chains of transmission of these hadiths include Judāmah bint Wahb. In hadith No. 3136, Muslim mentions the disagreement among narrators about her name and that Khalaf said that it was Judhāmah. [The difference in the written form in these names is that the ‘dh’ is written in the same way as ‘d’ with a dot above it.] The majority of scholars agree with Muslim that it is Judāmah.

Her name occurs as Judāmah bint Wahb, and in one version as Judāmah bint Wahb, ʿUkkāshah’s sister. *Qadi* ʿIyāḍ said: ‘Some scholars said that she was ʿUkkāshah’s sister, stating that she was Judāmah bint Wahb ibn Miḥṣan. Others said that she was the sister of a different man called ʿUkkāshah ibn Wahb, who was different from the well-known ʿUkkāshah ibn Miḥṣan. Al-Ṭabarī said that she was Judāmah bint Jandal, one of the Muhājirīn, but scholars of Hadith called her Judāmah bint Wahb’.

This is what *Qadi* ʿIyāḍ mentioned about her, but the preferred view is that she was Judāmah bint Wahb al-Asadiyyah, sister of ʿUkkāshah ibn Miḥṣan al-Asadī. As such, she was his half-sister, both having the same mother. The name ʿUkkāshah is also pronounced with one ‘k’, but it is better known with the double variant, ‘kk’.

Hadith No. 3139 includes the narrator ʿAyyāsh ibn ʿAbbās. He is known as al-Qatbānī, and Qatbān was a branch of the tribe known as Ruʿayn.

i. Related by Abu Dāwūd, 3882; al-Tirmidhī, 2067 and 2077; al-Nasā’ī, 3326; Ibn Mājah, 2011.

BOOK
OF
BREAST-
FEEDING

CHAPTER 1–2

MARRIAGES BLOCKED BY BREASTFEEDING

[3139–1]. (Dar al-Salam 3395) Yaḥyā ibn Yaḥyā narrated:[i] he said: I read out to Mālik; from ʿAbdullāh ibn Abu Bakr; from ʿAmrah; that ʿĀ'ishah told her that **'God's Messenger (peace be upon him) was with her when she heard the voice of a man seeking permission to enter Ḥafṣah's home. I said: "Messenger of God, there is a man seeking entry to your home". God's Messenger said: "I think he is so-and-so", (mentioning Ḥafṣah's uncle through breastfeeding). ʿĀ'ishah said: "Had such-and-such (mentioning her own uncle through breastfeeding) been alive, would he enter my home?" He said: "Yes, breastfeeding blocks marriages in the same way as birth".'**

حَدَّثَنَا يَحْيَى بْنُ يَحْيَى، قَالَ قَرَأْتُ عَلَى مَالِكٍ، عَنْ عَبْدِ اللهِ بْنِ أَبِي بَكْرٍ، عَنْ عَمْرَةَ، أَنَّ عَائِشَةَ أَخْبَرَتْهَا أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ كَانَ عِنْدَهَا، وَإِنَّهَا سَمِعَتْ صَوْتَ رَجُلٍ يَسْتَأْذِنُ فِي بَيْتِ حَفْصَةَ . قَالَتْ عَائِشَةُ: فَقُلْتُ يَا رَسُولَ اللهِ، هَذَا رَجُلٌ يَسْتَأْذِنُ فِي بَيْتِكَ . فَقَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «أُرَاهُ فُلاَنًا»، لِعَمِّ حَفْصَةَ مِنَ الرَّضَاعَةِ . فَقَالَتْ عَائِشَةُ: يَا رَسُولَ اللهِ لَوْ كَانَ فُلاَنٌ حَيًّا - لِعَمِّهَا مِنَ الرَّضَاعَةِ -

دَخَلَ عَلَيَّ؟ قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «نَعَمْ إِنَّ الرَّضَاعَةَ تُحَرِّمُ مَا تُحَرِّمُ الْوِلاَدَةُ».

[3140–2]. (Dar al-Salam 3396) Abu Kurayb narrated:[ii] Abu Usāmah narrated [H]. Also, Abu Maʿmar Ismāʿīl ibn Ibrāhīm al-Hudhalī narrated to me; ʿAlī ibn Hāshim ibn al-Barīd narrated: all from Hishām ibn ʿUrwah; from ʿAbdullāh ibn Abu Bakr; from ʿAmrah; from ʿĀ'ishah. She said: **'God's Messenger (peace be upon him) said to me: "Breastfeeding blocks marriages in the same way as birth".'**

وَحَدَّثَنَاهُ أَبُو كُرَيْبٍ، حَدَّثَنَا أَبُو أُسَامَةَ، ح. وَحَدَّثَنِي أَبُو مَعْمَرٍ إِسْمَاعِيلُ بْنُ إِبْرَاهِيمَ الْهُذَلِيُّ، حَدَّثَنَا عَلِيُّ بْنُ هَاشِمِ بْنِ الْبَرِيدِ، جَمِيعًا عَنْ هِشَامِ بْنِ عُرْوَةَ، عَنْ عَبْدِ اللهِ بْنِ أَبِي بَكْرٍ، عَنْ عَمْرَةَ، عَنْ عَائِشَةَ قَالَتْ: قَالَ لِي رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «يَحْرُمُ مِنَ الرَّضَاعَةِ مَا يَحْرُمُ مِنَ الْوِلاَدَةِ».

Isḥāq ibn Manṣūr narrated it to me: ʿAbd al-Razzāq reported; Ibn Jurayj reported; ʿAbdullāh ibn Abi Bakr reported to me; with the same chain of transmission: **the same as Hishām ibn ʿUrwah's narration.**

وَحَدَّثَنِيهِ إِسْحَاقُ بْنُ مَنْصُورٍ، أَخْبَرَنَا عَبْدُ الرَّزَّاقِ، أَخْبَرَنَا ابْنُ جُرَيْجٍ، أَخْبَرَنِي عَبْدُ اللهِ بْنُ أَبِي بَكْرٍ، بِهَذَا الإِسْنَادِ . مِثْلَ حَدِيثِ هِشَامِ بْنِ عُرْوَةَ.

[3141–3]. (Dar al-Salam 3397) Yaḥyā ibn Yaḥyā narrated: he said:[iii] I read out to Mālik; from Ibn Shihāb; from ʿUrwah ibn al-Zubayr; from ʿĀ’ishah; that she told him, that **Aflaḥ, Abu al-Quʿays’ brother, who was her uncle through breastfeeding, sought permission to enter her home, after the decree of screening [of the Prophet’s wives]. ‘I refused to let him in. When God’s Messenger (peace be upon him) came I told him what I did. He ordered me to admit him’.**

حَدَّثَنَا يَحْيَى بْنُ يَحْيَى، قَالَ قَرَأْتُ عَلَى مَالِكٍ، عَنِ ابْنِ شِهَابٍ، عَنْ عُرْوَةَ بْنِ الزُّبَيْرِ، عَنْ عَائِشَةَ، أَنَّهَا أَخْبَرَتْهُ أَنَّ أَفْلَحَ - أَخَا أَبِي الْقُعَيْسِ - جَاءَ يَسْتَأْذِنُ عَلَيْهَا، وَهُوَ عَمُّهَا مِنَ الرَّضَاعَةِ، بَعْدَ أَنْ أُنْزِلَ الْحِجَابُ. قَالَتْ: فَأَبَيْتُ أَنْ آذَنَ لَهُ، فَلَـمَّا جَاءَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ أَخْبَرْتُهُ بِالَّذِي صَنَعْتُ، فَأَمَرَنِي أَنْ آذَنَ لَهُ عَلَيَّ.

[3142–4]. (Dar al-Salam 3398) Abu Bakr ibn Abi Shaybah narrated:[iv] Sufyān ibn ʿUyaynah narrated; from al-Zuhrī; from ʿUrwah; from ʿĀ’ishah. She said: **‘My uncle through breastfeeding, Aflaḥ ibn Abu Quʿays, came to visit me…’ the same text as Mālik’s narration. And he added: ‘I said: “It was the woman, not the man, who breastfed me”. He [the Prophet] said: “You should not do that”.’**

وَحَدَّثَنَاهُ أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا سُفْيَانُ بْنُ عُيَيْنَةَ، عَنِ الزُّهْرِيِّ، عَنْ عُرْوَةَ، عَنْ عَائِشَةَ قَالَتْ: أَتَانِي عَمِّي مِنَ الرَّضَاعَةِ أَفْلَحُ بْنُ أَبِي

قُعَيْسٍ . فَذَكَرَ بِمَعْنَى حَدِيثِ مَالِكٍ، وَزَادَ: قُلْتُ إِنَّمَا أَرْضَعَتْنِي الْـمَرْأَةُ وَلَمْ يُرْضِعْنِي الرَّجُلُ. قَالَ: «تَرِبَتْ يَدَاكِ أَوْ يَمِينُكِ».

[3143–5]. (Dar al-Salam 3399) Ḥarmalah ibn Yaḥyā narrated to me: Ibn Wahb narrated; Yūnus reported to me; from Ibn Shihāb; from ʿUrwah; that ʿĀ’ishah told him that **Aflaḥ, Abu al-Quʿays’ brother, sought permission to enter her home, after the decree of screening was revealed. Abu al-Quʿays was ʿĀ’ishah’s father through breastfeeding. ʿĀ’ishah said: ‘I thought that I must not admit Aflaḥ until I had obtained God’s Messenger’s permission. It was not Abu al-Quʿays who breastfed me, but his wife did’. ʿĀ’ishah said: ‘When God’s Messenger (peace be upon him) came in, I said: “Messenger of God, Aflaḥ, Abu al-Quʿays’ brother came and wished to enter, but I did not like to admit him until I have sought your permission”. The Prophet said: “Admit him”.’**

ʿUrwah said: ‘Hence ʿĀ’ishah used to say: “Block through breastfeeding the same marriages as you block through blood relations”.’

وَحَدَّثَنِي حَرْمَلَةُ بْنُ يَحْيَى، حَدَّثَنَا ابْنُ وَهْبٍ، أَخْبَرَنِي يُونُسُ، عَنِ ابْنِ شِهَابٍ، عَنْ عُرْوَةَ، أَنَّ عَائِشَةَ أَخْبَرَتْهُ أَنَّهُ جَاءَ أَفْلَحُ، أَخُو أَبِي الْقُعَيْسِ، يَسْتَأْذِنُ عَلَيْهَا بَعْدَ مَا نَزَلَ الْحِجَابُ - وَكَانَ أَبُو الْقُعَيْسِ أَبَا عَائِشَةَ مِنَ الرَّضَاعَةِ - قَالَتْ عَائِشَةُ: فَقُلْتُ وَاللهِ لاَ آذَنُ لأَفْلَحَ، حَتَّى أَسْتَأْذِنَ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ. فَإِنَّ أَبَا الْقُعَيْسِ لَيْسَ هُوَ أَرْضَعَنِي، وَلَكِنْ أَرْضَعَتْنِي امْرَأَتُهُ. قَالَتْ عَائِشَةُ: فَلَـمَّا دَخَلَ رَسُولُ اللهِ صَلَّى اللهُ

عَلَيْهِ وَسَلَّمَ قُلْتُ: يَا رَسُولَ اللهِ إِنَّ أَفْلَحَ أَخَا أَبِي الْقُعَيْسِ، جَاءَنِي يَسْتَأْذِنُ عَلَيَّ، فَكَرِهْتُ أَنْ آذَنَ لَهُ حَتَّى أَسْتَأْذِنَكَ. قَالَتْ فَقَالَ النَّبِيُّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «ائْذَنِي لَهُ ».

قَالَ عُرْوَةُ: فَبِذَلِكَ كَانَتْ عَائِشَةُ تَقُولُ: حَرِّمُوا مِنَ الرَّضَاعَةِ مَا تُحَرِّمُونَ مِنَ النَّسَبِ.

[3144–6]. (Dar al-Salam 3400) ʿAbd ibn Ḥumayd narrated: ʿAbd al-Razzāq narrated; Maʿmar reported; from al-Zuhrī; with the same chain of transmission: **‘Aflaḥ, Abu al-Quʿays’ brother sought admission at ʿĀ’ishah’s… adding a similar text. It adds [that the Prophet told her]: “He is your uncle. You should not do that again”.’**

Abu al-Quʿays was the husband of the woman who breastfed ʿĀ’ishah.

وَحَدَّثَنَاهُ عَبْدُ بْنُ حُمَيْدٍ، أَخْبَرَنَا عَبْدُ الرَّزَّاقِ، أَخْبَرَنَا مَعْمَرٌ، عَنِ الزُّهْرِيِّ، بِهَذَا الإِسْنَادِ: جَاءَ أَفْلَحُ، أَخُو أَبِي الْقُعَيْسِ، يَسْتَأْذِنُ عَلَيْهَا.. . بِنَحْوِ حَدِيثِهِمْ. وَفِيهِ: «فَإِنَّهُ عَمُّكِ. تَرِبَتْ يَمِينُكِ» . وَكَانَ أَبُو الْقُعَيْسِ زَوْجَ الْـمَرْأَةِ الَّتِي أَرْضَعَتْ عَائِشَةَ.

[3145–7]. (Dar al-Salam 3401) Abu Bakr ibn Abi Shaybah and Abu Kurayb narrated:ᵛ both said: Ibn Numayr narrated; from Hishām; from his father; from ʿĀ’ishah. She said: **‘My uncle through breastfeeding sought permission to come in, but I refused him permission until I had consulted God’s Messenger (peace be upon him). When God’s Messenger came in, I said: “My uncle**

through breastfeeding sought permission to come in but I refused him". The Prophet said: "Let your uncle come in". I said: "It was the woman who breastfed me, not the man". He said: "He is your uncle. Admit him".'

وَحَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، وَأَبُو كُرَيْبٍ قَالا: حَدَّثَنَا ابْنُ نُمَيْرٍ، عَنْ هِشَامٍ، عَنْ أَبِيهِ، عَنْ عَائِشَةَ قَالَتْ: جَاءَ عَمِّي مِنَ الرَّضَاعَةِ يَسْتَأْذِنُ عَلَيَّ، فَأَبَيْتُ أَنْ آذَنَ لَهُ حَتَّى أَسْتَأْمِرَ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ. فَلَـمَّا جَاءَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قُلْتُ: إِنَّ عَمِّي مِنَ الرَّضَاعَةِ اسْتَأْذَنَ عَلَيَّ، فَأَبَيْتُ أَنْ آذَنَ لَهُ . فَقَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «فَلْيَلِجْ عَلَيْكِ عَمُّكِ». قُلْتُ: إِنَّمَا أَرْضَعَتْنِي الْـمَرْأَةُ، وَلَمْ يُرْضِعْنِي الرَّجُلُ. قَالَ: «إِنَّهُ عَمُّكِ، فَلْيَلِجْ عَلَيْكِ».

[3146–000]. (Dar al-Salam 3402-3403) Abu al-Rabīʿ al-Zahrānī narrated to me: Ḥammād (meaning Ibn Zayd) narrated; Hishām narrated; with the same chain of transmission that **'Abu al-Quʿays' brother sought permission to enter…' adding a similar text.**

وَحَدَّثَنِي أَبُو الرَّبِيعِ الزَّهْرَانِيُّ، حَدَّثَنَا حَمَّادٌ (يَعْنِي ابْنَ زَيْدٍ)، حَدَّثَنَا هِشَامٌ، بِهَذَا الإِسْنَادِ: أَنَّ أَخَا أَبِي الْقُعَيْسِ، اسْتَأْذَنَ عَلَيْهَا.. . فَذَكَرَ نَحْوَهُ.

Yaḥyā ibn Yaḥyā narrated: Abu Muʿāwiyah reported; from Hishām; with the same chain of transmission: **a similar text, except that he said: 'Abu al-Quʿays requested her permission'.**

وَحَدَّثَنَا يَحْيَى بْنُ يَحْيَى، أَخْبَرَنَا أَبُو مُعَاوِيَةَ، عَنْ هِشَامٍ، بِهَذَا الإِسْنَادِ: نَحْوَهُ، غَيْرَ أَنَّهُ قَالَ اسْتَأْذَنَ عَلَيْهَا أَبُو الْقُعَيْسِ.

[3147–8]. (Dar al-Salam 3404) Al-Ḥasan ibn ʿAlī al-Ḥulwānī and Muhammad ibn Rāfiʿ narrated to me:[vi] both said: ʿAbd al-Razzāq reported; Ibn Jurayj reported; from ʿAṭā’; ʿUrwah ibn al-Zubayr narrated; that ʿĀ’ishah told him: **‘Abu al-Jaʿd, my uncle through breastfeeding, requested permission to enter, but I refused him. (Hishām said to me: He is Abu al-Quʿays.) When the Prophet came in, I told him that. He said: “Should you not have admitted him? You should not do this”.’**

وَحَدَّثَنِي الْحَسَنُ بْنُ عَلِيٍّ الْحُلْوَانِيُّ، وَمُحَمَّدُ بْنُ رَافِعٍ، قَالا: أَخْبَرَنَا عَبْدُ الرَّزَّاقِ، أَخْبَرَنَا ابْنُ جُرَيْجٍ، عَنْ عَطَاءٍ، أَخْبَرَنِي عُرْوَةُ بْنُ الزُّبَيْرِ، أَنَّ عَائِشَةَ أَخْبَرَتْهُ قَالَتِ: اسْتَأْذَنَ عَلَيَّ عَمِّي مِنَ الرَّضَاعَةِ، أَبُو الْجَعْدِ، فَرَدَدْتُهُ - قَالَ لِي هِشَامٌ إِنَّمَا هُوَ أَبُو الْقُعَيْسِ - فَلَـمَّا جَاءَ النَّبِيُّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ أَخْبَرْتُهُ بِذَلِكَ. قَالَ: «فَهَلاَّ أَذِنْتِ لَهُ، تَرِبَتْ يَمِينُكِ أَوْ يَدُكِ».

[3148–9]. (Dar al-Salam 3405) Qutaybah ibn Saʿīd narrated:[vii] Layth narrated [H]. Also, Muhammad ibn Rumḥ narrated; al-Layth reported; from Yazīd ibn Abi Ḥabīb; from ʿIrāk; from ʿUrwah; from ʿĀ’ishah; that she told him that **her uncle through breastfeeding, called Aflaḥ, requested permission to enter, but she did not permit him. She told God’s Messenger (peace be upon him) and he said to her: ‘Do not screen yourself from him. Breastfeeding blocks marriages in the same way as blood relations’.**

حَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ، حَدَّثَنَا لَيْثٌ، ح. وَحَدَّثَنَا مُحَمَّدُ بْنُ رُمْحٍ، أَخْبَرَنَا اللَّيْثُ، عَنْ يَزِيدَ بْنِ أَبِي حَبِيبٍ، عَنْ عِرَاكٍ، عَنْ عُرْوَةَ، عَنْ عَائِشَةَ أَنَّهَا أَخْبَرَتْهُ أَنَّ عَمَّهَا مِنَ الرَّضَاعَةِ - يُسَمَّى أَفْلَحَ - اسْتَأْذَنَ عَلَيْهَا، فَحَجَبَتْهُ، فَأَخْبَرَتْ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَقَالَ لَهَا: «لا تَحْتَجِبِي مِنْهُ فَإِنَّهُ يَحْرُمُ مِنَ الرَّضَاعَةِ مَا يَحْرُمُ مِنَ النَّسَبِ».

[3149–10]. (Dar al-Salam 3406) ʿUbaydullāh ibn Muʿādh al-ʿAnbarī narrated: my father narrated; Shuʿbah narrated; from al-Ḥakam; from ʿIrāk ibn Mālik; from ʿUrwah; from ʿĀ’ishah. She said: **‘Aflaḥ ibn Quʿays requested entry to me, but I refused him permission. He sent me [a message] saying: “I am your uncle, my sister-in-law breastfed you”, but I refused him permission. God’s Messenger (peace be upon him) then came in and I mentioned it to him. He said: “Let him in; he is your uncle”.’**

وَحَدَّثَنَا عُبَيْدُ اللهِ بْنُ مُعَاذٍ الْعَنْبَرِيُّ، حَدَّثَنَا أَبِي، حَدَّثَنَا شُعْبَةُ، عَنِ الْحَكَمِ، عَنْ عِرَاكِ بْنِ مَالِكٍ، عَنْ عُرْوَةَ، عَنْ عَائِشَةَ قَالَتِ: اسْتَأْذَنَ عَلَيَّ أَفْلَحُ بْنُ قُعَيْسٍ فَأَبَيْتُ أَنْ آذَنَ لَهُ. فَأَرْسَلَ: إِنِّي عَمُّكِ أَرْضَعَتْكِ امْرَأَةُ أَخِي. فَأَبَيْتُ أَنْ آذَنَ لَهُ. فَجَاءَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، فَذَكَرْتُ ذَلِكَ لَهُ، فَقَالَ: «لِيَدْخُلْ عَلَيْكِ، فَإِنَّهُ عَمُّكِ».

Text Explanation

These hadiths are consistent, confirming the prohibition of marriages when there is a relationship of breastfeeding. The Muslim community is unanimous that marriage between a woman and a man she breastfed when he was a baby, born to someone else, is absolutely and permanently forbidden. He may see her, be alone with her and travel with her. However, not all rulings of motherhood apply to such a person. They do not inherit each other, nor is either of them responsible for looking after the other financially. Similarly, his testimony in her favour is accepted, and he is not responsible for paying any blood money she incurs. If she kills him, she is liable to be punished by retaliation (i.e., the death penalty) unlike the case of her own children. In all such matters, they are in the same position as unrelated people.

The Muslim community is also unanimous that the prohibition of marriages applies between the breastfeeding woman and the children of the breastfed child, and between that child and the children of the breastfeeding woman. The child she breastfeeds is like her own children according to these hadiths. As for the man who shares ownership of the milk because he is the woman's husband or master, the view of all scholars, including our own Shāfiʿī School, is that the prohibition of marriages through breastfeeding applies to him in relation to the breastfed child. The child is his own son or daughter. The man's children are brothers and sisters of the breastfed child. As such, the man's siblings are the child's uncles and aunts, and the child's children are the man's grandchildren. None disagrees with this view except the Ẓāhirī scholars and Ibn ʿUlayyah. They say that the prohibition through breastfeeding does not apply between the man [the woman's husband] and the breastfed child.

Al-Māzarī says that the same view was expressed by Ibn ʿUmar and ʿĀ'ishah, citing in evidence that God says in the verse detailing prohibited marriages: 'Your mothers who have given suck to you and your suckling

sisters’. (4: 23) Daughters and aunts are not mentioned here as they were mentioned among blood relatives. In support of their argument, the majority of scholars give these authentic hadiths clearly stating the cases of the uncles of ʿĀ’ishah and Ḥafṣah. In addition to the permission of admitting such uncles, the Prophet said: ‘Breastfeeding blocks marriages in the same way as childbirth’. In response to the argument concerning daughters and aunts through breastfeeding and that they are not mentioned in the Qur’anic verse, they say that no verse in the Qur’an mentions that they are lawful to marry. To specify something in connection with a particular ruling does not imply that the ruling is limited to what is mentioned and does not apply to other things, unless this is specified by counter evidence. In this case, however, we have these authentic hadiths to confirm the applicability of that ruling, but God knows best.

In hadith No. 3141 ʿĀ’ishah mentions to the Prophet ‘that Aflaḥ, Abu al-Quʿays’ brother, who was her uncle through breastfeeding, sought permission to enter her home, and that she refused to let him in’. The first hadith in the chapter, No. 3139, mentions that she asked the Prophet: ‘Had such-and-such (mentioning her own uncle through breastfeeding) been alive, would he enter my home?’ He said: ‘Yes, breastfeeding blocks marriages in the same way as birth’.

Scholars differ concerning ʿĀ’ishah’s uncle. Abu al-Ḥasan al-Qābisī said: ‘They were two uncles of ʿĀ’ishah through suckling. The first was Abu Bakr’s suckling brother, as they were both breastfed by the same woman. The other was the brother of Abu al-Quʿays who was her father through breastfeeding, and his brother Aflaḥ was her uncle.’ Some said that they are one uncle, but this is wrong. The uncle she refers to in the first hadith was dead, while the other was alive, and he came to her seeking admission. Therefore, al-Qābisī’s explanation is the correct one.

Qadi ʿIyāḍ mentions the two views and adds that al-Qābisī’s explanation is more likely. Had there been only one uncle, she would have understood the ruling the first time and she would not refuse him

permission to enter. A question though may be raised: if there were two uncles, how come she asked about the deceased one and the Prophet told her that as her uncle, he could be admitted into her home, and she still refused admission to her other uncle, Abu al-Quʿays' brother, until the Prophet told her that he was her uncle and he might visit her? Should she not have known with one question? The answer is that one of them was her uncle through one parent, and the other through both, or one was an uncle of a higher degree and the other of a lesser degree. Or there might have been some other difference in their relation to her. She might have feared that the permission was applicable only to the one she asked about first, but God knows best.

The name of ʿĀ'ishah's uncle is given differently in some of these hadiths. He is first mentioned as Aflaḥ Abu al-Quʿays' brother; then his name is given as Aflaḥ ibn Abi Quʿays, or Aflaḥ ibn Quʿays, and in one hadith as Abu al-Jaʿd, with the addition that he is Abu al-Quʿays. The correct name is the first one, which Muslim repeats in the hadiths included in this chapter. It is the one known in books of Hadith and other works. Her uncle through breastfeeding was Aflaḥ, Abu al-Quʿays' brother. His appellation is Abu al-Jaʿd.

i. Related by al-Bukhari, 2646, 3105 and 5099; al-Nasā'ī, 3313.
ii. Related by al-Nasā'ī, 3302.
iii. Related by al-Bukhari, 5103; al-Nasā'ī, 3316.
iv. Related by al-Nasā'ī, 3317; Ibn Mājah, 1948.
v. Related by al-Tirmidhī, 1148.
vi. Related by al-Nasā'ī, 3134.
vii. Related by al-Bukhari in similar wording, 2644; al-Nasā'ī, 3301 and 3318.

CHAPTER 3

PROHIBITION OF MARRIAGE WITH A NIECE THROUGH BREASTFEEDING

[3150–11]. (Dar al-Salam 3407-3408) Abu Bakr ibn Abi Shaybah, Zuhayr ibn Ḥarb and Muhammad ibn al-ʿAlā’ narrated (Abu Bakr’s text):[i] they said: Abu Muʿāwiyah narrated; from al-Aʿmash; from Saʿd ibn ʿUbaydah; from Abu ʿAbd al-Raḥmān; from ʿAlī. He said: **‘I said: “Messenger of God, why do you go far to choose from the Quraysh and ignore us? He said: “Do you have any? I said: “Yes, Ḥamzah’s daughter”. The Prophet said: “She is unlawful to me; she is the daughter of my suckling brother”.’**

حَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، وَزُهَيْرُ بْنُ حَرْبٍ، وَمُحَمَّدُ بْنُ الْعَلاَءِ (وَاللَّفْظُ لأَبِي بَكْرٍ) قَالُوا: حَدَّثَنَا أَبُو مُعَاوِيَةَ، عَنِ الأَعْمَشِ، عَنْ سَعْدِ بْنِ عُبَيْدَةَ، عَنْ أَبِي عَبْدِ الرَّحْمَنِ، عَنْ عَلِيٍّ قَالَ: قُلْتُ يَا رَسُولَ اللهِ، مَا لَكَ تَنَوَّقُ فِي قُرَيْشٍ وَتَدَعُنَا؟ فَقَالَ: «وَعِنْدَكُمْ شَيْءٌ». قُلْتُ: نَعَمْ، بِنْتُ حَمْزَةَ . فَقَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «إِنَّهَا لاَ تَحِلُّ لِي. إِنَّهَا ابْنَةُ أَخِي مِنَ الرَّضَاعَةِ».

ʿUthmān ibn Abi Shaybah and Isḥāq ibn Ibrāhīm narrated: from Jarīr [H]. Also, Ibn Numayr narrated; my father narrated [H]. And Muhammad ibn Abi Bakr al-Muqaddamī narrated; ʿAbd al-Raḥmān

ibn Mahdī narrated; from Sufyān; all from al-Aʿmash; with this chain of transmission: **the same text.**

وَحَدَّثَنَا عُثْمَانُ بْنُ أَبِي شَيْبَةَ، وَإِسْحَاقُ بْنُ إِبْرَاهِيمَ، عَنْ جَرِيرٍ، ح. وَحَدَّثَنَا ابْنُ نُمَيْرٍ، حَدَّثَنَا أَبِي ح. وَحَدَّثَنَا مُحَمَّدُ بْنُ أَبِي بَكْرٍ الْـمُقَدَّمِيُّ، حَدَّثَنَا عَبْدُ الرَّحْمَنِ بْنُ مَهْدِيٍّ، عَنْ سُفْيَانَ، كُلُّهُمْ عَنِ الأَعْمَشِ، بِهَذَا الإِسْنَادِ: مِثْلَهُ.

[3151–12]. (Dar al-Salam 3409) Haddāb ibn Khālid narrated:[ii] Hammām narrated; Qatādah narrated; from Jābir ibn Zayd; from Ibn ʿAbbās; that **the Prophet was urged to marry Ḥamzah's daughter. He said: 'She is unlawful to me. She is the daughter of my suckling brother. Breastfeeding blocks marriages in the same way as family relations'.**

وَحَدَّثَنَا هَدَّابُ بْنُ خَالِدٍ، حَدَّثَنَا هَمَّامٌ، حَدَّثَنَا قَتَادَةُ، عَنْ جَابِرِ بْنِ زَيْدٍ، عَنِ ابْنِ عَبَّاسٍ، أَنَّ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ أُرِيدَ عَلَى ابْنَةِ حَمْزَةَ، فَقَالَ: «إِنَّهَا لاَ تَحِلُّ لِي. إِنَّهَا ابْنَةُ أَخِي مِنَ الرَّضَاعَةِ، وَيَحْرُمُ مِنَ الرَّضَاعَةِ مَا يَحْرُمُ مِنَ الرَّحِمِ».

[3152–13]. (Dar al-Salam 3410) Zuhayr ibn Ḥarb narrated: Yaḥyā (who is al-Qaṭṭān) narrated [H]. Also, Muhammad ibn Yaḥyā ibn Mihrān al-Quṭaʿī narrated; Bishr ibn ʿUmar narrated; all from Shuʿbah [H]. And Abu Bakr ibn Abi Shaybah narrated; ʿAlī ibn Mushir narrated; from Saʿīd ibn Abi ʿArūbah; both from Qatādah; in the same chain of transmission as Hammām's: **the same text exactly, except that Shuʿbah's narration stopped at: 'the**

daughter of my suckling brother’; and in Saʿīd’s narration: ‘Breastfeeding blocks marriages in the same way as family relations’; and in Bishr ibn ʿUmar’s narration: ‘I heard Jābir ibn Zayd’.

وَحَدَّثَنَاهُ زُهَيْرُ بْنُ حَرْبٍ، حَدَّثَنَا يَحْيَى (وَهُوَ الْقَطَّانُ) ح. وَحَدَّثَنَا مُحَمَّدُ بْنُ يَحْيَى بْنِ مِهْرَانَ الْقُطَعِيُّ، حَدَّثَنَا بِشْرُ بْنُ عُمَرَ، جَمِيعًا عَنْ شُعْبَةَ، ح. وَحَدَّثَنَاهُ أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا عَلِيُّ بْنُ مُسْهِرٍ، عَنْ سَعِيدِ بْنِ أَبِي عَرُوبَةَ، كِلاَهُمَا عَنْ قَتَادَةَ، بِإِسْنَادِ هَمَّامٍ سَوَاءً، غَيْرَ أَنَّ حَدِيثَ شُعْبَةَ انْتَهَى عِنْدَ قَوْلِهِ «ابْنَةُ أَخِي مِنَ الرَّضَاعَةِ». وَفِي حَدِيثِ سَعِيدٍ: «وَإِنَّهُ يَحْرُمُ مِنَ الرَّضَاعَةِ مَا يَحْرُمُ مِنَ النَّسَبِ». وَفِي رِوَايَةِ بِشْرِ بْنِ عُمَرَ: سَمِعْتُ جَابِرَ بْنَ زَيْدٍ.

[3153–14]. (Dar al-Salam 3411) Ḥārūn ibn Saʿīd al-Aylī and Ahmad ibn ʿĪsā narrated: both said: Ibn Wahb narrated; Makhramah ibn Bukayr reported to me; from his father; he said: I heard ʿAbdullāh ibn Muslim say: I heard Muhammad ibn Muslim say: I heard Ḥumayd ibn ʿAbd al-Raḥmān say: I heard Umm Salamah, the Prophet’s wife, say: **‘It was said to God’s Messenger (peace be upon him): “How come you have not thought of Ḥamzah’s daughter, Messenger of God?” Or: “Why do you not propose to marry the daughter of Ḥamzah ibn ʿAbd al-Muṭṭalib?” He said: “Ḥamzah was my suckling brother”.’**

وَحَدَّثَنَا هَارُونُ بْنُ سَعِيدٍ الأَيْلِيُّ، وَأَحْمَدُ بْنُ عِيسَى، قَالا: حَدَّثَنَا ابْنُ وَهْبٍ، أَخْبَرَنِي مَخْرَمَةُ بْنُ بُكَيْرٍ، عَنْ أَبِيهِ، قَالَ: سَمِعْتُ عَبْدَ اللهِ بْنَ

مُسْلِمٍ يَقُولُ: سَمِعْتُ مُحَمَّدَ بْنَ مُسْلِمٍ يَقُولُ: سَمِعْتُ حُمَيْدَ بْنَ عَبْدِ الرَّحْمَنِ يَقُولُ: سَمِعْتُ أُمَّ سَلَمَةَ، زَوْجَ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ تَقُولُ: قِيلَ لِرَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: أَيْنَ أَنْتَ يَا رَسُولَ اللهِ عَنِ ابْنَةِ حَمْزَةَ؟ أَوْ قِيلَ: أَلاَ تَخْطُبُ بِنْتَ حَمْزَةَ بْنِ عَبْدِ الْـمُطَّلِبِ؟ قَالَ: «إِنَّ حَمْزَةَ أَخِي مِنَ الرَّضَاعَةِ».

Text Explanation

As these hadiths are self-explanatory, Imam al-Nawawī only enters here the meaning and pronunciation of a couple of unfamiliar words, but he has more to say about the transmission.

Transmission

Hadith No. 3152 ends with: ‘and in Bishr ibn ʿUmar’s narration: I heard Jābir ibn Zayd’. This means that in the version narrated by Bishr, Qatādah said: ‘I heard Jābir ibn Zayd’. This needs to be clarified because Qatādah is graded as ‘misleading’. In the first chain of transmission of this hadith, we have ‘from Qatādah from Jābir’. It is well known that a narration by a misleading narrator is unacceptable when it occurs in the form of ‘from so-and-so’ until his hearing the hadith from the narrator above him is ascertained. As it is ascertained in Bishr’s version, it is accepted, and Muslim highlights this.

The chain of transmission of hadith No. 3153 includes: ‘Makhramah ibn Bukayr reported to me; from his father; he said: I heard ʿAbdullāh ibn Muslim say: I heard Muhammad ibn Muslim say: I heard Ḥumayd ibn ʿAbd al-Raḥmān say: I heard Umm Salamah’. This chain includes four narrators from the *tābiʿīn* generation: (1) Bukayr ibn ʿAbdullāh ibn al-Ashajj, who narrates from several of the Prophet’s Companions; (2) ʿAbdullāh ibn Muslim al-Zuhrī, who is the brother of the famous al-Zuhrī. He is a *tābiʿī* who heard from Ibn ʿUmar and other Companions of the Prophet. He is older than his famous brother; (3) Muhammad ibn Muslim the famous al-Zuhrī; and 4) Ḥumayd ibn ʿAbd al-Raḥmān ibn ʿAwf, also a famous *tābiʿī*. There are three interesting points in this chain of transmission: a) that it has four *tābiʿīn* narrators; b) that the senior narrator reports from the junior because ʿAbdullāh was older than his brother Muhammad as we mentioned; and c) that one brother narrates from another brother.

i. Related by al-Nasā’ī, 3304.

ii. Related by al-Bukhari, 2645 and 5100; al-Nasā’ī, 3305 and 3306; Ibn Mājah, 1938.

CHAPTER 4

THE PROHIBITION OF MARRYING ONE'S STEPDAUGHTER AND SISTER-IN-LAW

[3154–15]. (Dar al-Salam 3412) Abu Kurayb Muhammad ibn al-ʿAlā' narrated:[i] Abu Usāmah narrated; Hishām reported; my father reported; from Zaynab bint Umm Salamah; from Umm Ḥabībah bint Abi Sufyān. She said: **'God's Messenger (peace be upon him) entered my place. I said to him: "Would you like to have my sister, Abu Sufyān's daughter?" He said: "To do what?" I said: "Marry her". He said: "Would you like that?" I said: "I am not your only wife, and the one I would love most to be my partner in all that is good is my sister". He said: "But she is unlawful to me". I said: "I am told that you have proposed to Durrah bint Abu Salamah". He said: "Umm Salamah's daughter?" I said: "Yes". He said: "Had she not been my stepdaughter and foster child, she would still be unlawful to me. She is the daughter of my suckling brother. Her father and I were suckled by Thuwaybah. Therefore, do not propose to me your daughters or sisters".'**

حَدَّثَنَا أَبُو كُرَيْبٍ مُحَمَّدُ بْنُ الْعَلاَءِ، حَدَّثَنَا أَبُو أُسَامَةَ، أَخْبَرَنَا هِشَامٌ، أَخْبَرَنَا أَبِي، عَنْ زَيْنَبَ بِنْتِ أُمِّ سَلَمَةَ، عَنْ أُمِّ حَبِيبَةَ بِنْتِ أَبِي سُفْيَانَ قَالَتْ: دَخَلَ عَلَىَّ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، فَقُلْتُ لَهُ: هَلْ لَكَ

فِي أَخْتِي بِنْتِ أَبِي سُفْيَانَ؟ فَقَالَ: «أَفْعَلُ مَاذَا؟» قُلْتُ تَنْكِحُهَا . قَالَ: «أَوَتُحِبِّينَ ذَلِكَ»؟ قُلْتُ لَسْتُ لَكَ بِمُخْلِيَةٍ، وَأَحَبُّ مَنْ شَرِكَنِي فِي الْخَيْرِ أُخْتِي . قَالَ: «فَإِنَّهَا لاَ تَحِلُّ لِي». قُلْتُ: فَإِنِّي أُخْبِرْتُ أَنَّكَ تَخْطُبُ دُرَّةَ بِنْتَ أَبِي سَلَمَةَ . قَالَ: «بِنْتَ أُمِّ سَلَمَةَ»؟ قُلْتُ نَعَمْ . قَالَ: «لَوْ أَنَّهَا لَمْ تَكُنْ رَبِيبَتِي فِي حَجْرِي، مَا حَلَّتْ لِي. إِنَّهَا ابْنَةُ أَخِي مِنَ الرَّضَاعَةِ. أَرْضَعَتْنِي وَأَبَاهَا ثُوَيْبَةُ. فَلاَ تَعْرِضْنَ عَلَىَّ بَنَاتِكُنَّ وَلاَ أَخَوَاتِكُنَّ».

Also, Suwayd ibn Saʿīd narrated this hadith to me: Yaḥyā ibn Zakariyyā’ ibn Abi Zā’idah [H]. Also, ʿAmr al-Nāqid narrated; al-Aswad ibn ʿĀmir narrated; Zuhayr reported; both from Hishām ibn ʿUrwah; with the same chain of transmission: **the same text exactly.**

وَحَدَّثَنِيهِ سُوَيْدُ بْنُ سَعِيدٍ، حَدَّثَنَا يَحْيَى بْنُ زَكَرِيَّاءَ بْنِ أَبِي زَائِدَةَ، ح. وَحَدَّثَنَا عَمْرٌو النَّاقِدُ، حَدَّثَنَا الأَسْوَدُ بْنُ عَامِرٍ، أَخْبَرَنَا زُهَيْرٌ، كِلاَهُمَا عَنْ هِشَامِ بْنِ عُرْوَةَ، بِهَذَا الإِسْنَادِ: سَوَاءً.

[3155–16]. (Dar al-Salam 3413) Muhammad ibn Rumḥ ibn al-Muhājir narrated: al-Layth reported; from Yazīd ibn Abi Ḥabīb; that Muhammad ibn Shihāb wrote mentioning that ʿUrwah narrated to him; that Zaynab bint Abi Salamah narrated; that **Umm Ḥabībah, the Prophet’s wife, narrated to her that she ‘said to God’s Messenger (peace be upon him): “Messenger of God, marry ʿAzzah my sister”. God’s Messenger said: “Would you like that?” I said: “I am not your only wife, and the one I would love most to be my partner in whatever is good is my sister”.**

He said: “But that is unlawful to me”. I said: “Yet we are talking that you wish to marry Durrah bint Abu Salamah”. He said: “Abu Salamah’s daughter?” I said: “Yes”. He said: “Had she not been my stepdaughter and foster child, she would still be unlawful to me. She is the daughter of my suckling brother. Thuwaybah breastfed me and Abu Salamah. Therefore, do not propose to me your daughters or sisters”.’

وَحَدَّثَنَا مُحَمَّدُ بْنُ رُمْحِ بْنِ الْـمُهَاجِرِ، أَخْبَرَنَا اللَّيْثُ، عَنْ يَزِيدَ بْنِ أَبِي حَبِيبٍ، أَنَّ محمّدَ بنَ شهابٍ كَتَبَ يذكُرُ أنّ عُرْوةَ حَدَّثَهُ، أَنَّ زَيْنَبَ بِنْتَ أَبِي سَلَمَةَ حَدَّثَتْهُ، أَنَّ أُمَّ حَبِيبَةَ، زَوْجَ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، حَدَّثَتْهَا أَنَّهَا قَالَتْ لِرَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: يَا رَسُولَ اللهِ انْكِحْ أُخْتِي عَزَّةَ . فَقَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «أَتُحِبِّينَ ذَلِكِ»؟ فَقَالَتْ: نَعَمْ يَا رَسُولَ اللهِ. لَسْتُ لَكَ بِمُخْلِيَةٍ، وَأَحَبُّ مَنْ شَرِكَنِي فِي خَيْرٍ أُخْتِي . فَقَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «فَإِنَّ ذَلِكِ لاَ يَحِلُّ لِي». قَالَتْ: فَقُلْتُ يَا رَسُولَ اللهِ، فَإِنَّا نَتَحَدَّثُ أَنَّكَ تُرِيدُ أَنْ تَنْكِحَ دُرَّةَ بِنْتَ أَبِي سَلَمَةَ . قَالَ: «بِنْتَ أَبِي سَلَمَةَ»؟ قَالَتْ نَعَمْ . قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «لَوْ أَنَّهَا لَمْ تَكُنْ رَبِيبَتِي فِي حَجْرِي، مَا حَلَّتْ لِي. إِنَّهَا ابْنَةُ أَخِي مِنَ الرَّضَاعَةِ. أَرْضَعَتْنِي وَأَبَا سَلَمَةَ ثُوَيْبَةُ، فَلاَ تَعْرِضْنَ عَلَيَّ بَنَاتِكُنَّ وَلاَ أَخَوَاتِكُنَّ».

ʿAbd al-Malik ibn Shuʿayb ibn al-Layth narrated it to me: my father narrated to me; from my grandfather; ʿUqayl ibn Khālid narrated to me [H]. Also, ʿAbd ibn Ḥumayd narrated; Yaʿqūb ibn Ibrāhīm al-Zuhrī reported to me; Muhammad ibn ʿAbdullāh ibn

Muslim narrated; both from al-Zuhrī; with the same chain of transmission of Ibn Ḥabīb from him: **a similar text. None of them mentioned ʿAzzah by name except Yazīd ibn Abi Ḥabīb.**

وَحَدَّثَنِيهِ عَبْدُ الْـمَلِكِ بْنُ شُعَيْبِ بْنِ اللَّيْثِ، حَدَّثَنِي أَبِي، عَنْ جَدِّي، حَدَّثَنِي عُقَيْلُ بْنُ خَالِدٍ ح. وَحَدَّثَنَا عَبْدُ بْنُ حُمَيْدٍ، أَخْبَرَنِي يَعْقُوبُ بْنُ إِبْرَاهِيمَ الزُّهْرِيُّ، حَدَّثَنَا مُحَمَّدُ بْنُ عَبْدِ اللهِ بْنِ مُسْلِمٍ، كِلاَهُمَا عَنِ الزُّهْرِيِّ، بِإِسْنَادِ ابْنِ أَبِي حَبِيبٍ عَنْهُ، نَحْوَ حَدِيثِهِ. وَلَمْ يُسَمِّ أَحَدٌ مِنْهُمْ فِي حَدِيثِهِ عَزَّةَ غَيْرُ يَزِيدَ بْنِ أَبِي حَبِيبٍ.

Text Explanation

In hadith No. 3154, Umm Ḥabībah, the Prophet's wife, suggests to him marrying her sister because she felt that to be married to God's Messenger was the best thing that could happen to a woman, and she wanted her sister to have that. Needless to say, marrying two sisters at the same time is forbidden in Islam. When the Prophet told Umm Ḥabībah that this was unlawful, she said that she was told that he wanted to marry Durrah bint Abu Salamah. Yet the Prophet was married to Durrah's mother, Umm Salamah. The Prophet makes sure that she meant that daughter, and when this is confirmed, he says: 'Had she not been my stepdaughter and foster child, she would still be unlawful to me. She is the daughter of my suckling brother. Her father and I were suckled by Thuwaybah. Therefore, do not propose to me your daughters or sisters'. This means that Durrah was forbidden to him to marry by two reasons: that she was his stepdaughter and that she was his niece. If one of the two reasons is lost the other is sufficient to block such a marriage.

The Prophet describes Durrah as his 'stepdaughter and foster child'. This is cited as evidence in support of Dāwūd al-Ẓāhirī's view that a stepdaughter is not forbidden to marry unless she is also a foster child. [A foster child means one that is looked after by her mother's husband who undertakes her upbringing.] Dāwūd says that if one's stepdaughter is not under one's care, she is lawful for him to marry. This is consistent with the Qur'anic verse that lists the blocked marriages. It says: 'Your stepdaughters who are your foster children'. (4: 23)

The view of all other scholars is that a stepdaughter is forbidden to marry, whether she is a foster child or not. If a limitation is stated for a reason which is the main condition, it is of no effect. Therefore, the ruling is not attached to it. A similar case is the command: 'Do not kill your children because of your poverty'. (6: 151) Needless to say, it is forbidden to kill one's children for any reason. The statement mentions poverty because it is

the main reason for such an offence. Another example is the command: ‘Do not force your maids to prostitution when they desire to preserve their chastity’. (24: 33) Further examples are plentiful in the Qur’an.

The Prophet mentions that Thuwaybah had breastfed him and Abu Salamah. Thuwaybah was a maid belonging to Abu Lahab, the Prophet’s uncle. She suckled him in the early days after his birth, before he was given to Ḥalīmah al-Saʿdiyyah, his wet nurse.

The Prophet tells his wife: ‘Do not offer me your sisters and your daughters’. This is a reference to Umm Ḥabībah’s sister, ʿAzzah, who is mentioned by name in the second version, and Umm Salamah’s daughter. This is understood to mean that at the time when she made this offer to the Prophet, Umm Ḥabībah did not know that it was forbidden to marry two sisters at the same time. Nor did she know that a stepdaughter is forbidden for one to marry. She also did not know that one cannot marry the daughter of one’s suckling brother, or that Ḥamzah was the Prophet’s brother through breastfeeding, but God knows best.

i. Related by al-Bukhari, 5101, 5106, 5107, 5372 and in a shorter version 5123; al-Nasā’ī, 3284, 3285, 3287 and in a shorter version, 3286; Ibn Mājah, 1939.

CHAPTER 5

ONE OR TWO DROPS OF MILK

[3156–17]. (Dar al-Salam 3414) Zuhayr ibn Ḥarb narrated to me:[i] Ismāʿīl ibn Ibrāhīm narrated [H]. Also, Muhammad ibn ʿAbdullāh ibn Numayr narrated; Ismāʿīl narrated [H]. And Suwayd ibn Saʿīd narrated; Muʿtamir ibn Sulaymān narrated; both from Ayyūb; from Ibn Abi Mulaykah; from ʿAbdullāh ibn al-Zubayr; from ʿĀ'ishah. She said: '**God's Messenger (peace be upon him) said: (while Suwayd and Zuhayr said that the Prophet said): 'One drop or two do not prohibit [marriage]'.**

حَدَّثَنِي زُهَيْرُ بْنُ حَرْبٍ، حَدَّثَنَا إِسْمَاعِيلُ بْنُ إِبْرَاهِيمَ، ح. وَحَدَّثَنَا مُحَمَّدُ بْنُ عَبْدِ اللهِ بْنِ نُمَيْرٍ، حَدَّثَنَا إِسْمَاعِيلُ، ح. وَحَدَّثَنَا سُوَيْدُ بْنُ سَعِيدٍ، حَدَّثَنَا مُعْتَمِرُ بْنُ سُلَيْمَانَ، كِلاَهُمَا عَنْ أَيُّوبَ، عَنِ ابْنِ أَبِي مُلَيْكَةَ، عَنْ عَبْدِ اللهِ بْنِ الزُّبَيْرِ، عَنْ عَائِشَةَ قَالَتْ: قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: (وَقَالَ سُوَيْدٌ وَزُهَيْرٌ إِنَّ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ) قَالَ: «لا تُحَرِّمُ الْـمَصَّةُ وَالْـمَصَّتَانِ».

[3157–18]. (Dar al-Salam 3415) Yaḥyā ibn Yaḥyā, ʿAmr al-Nāqid and Isḥāq ibn Ibrāhīm narrated:[ii] all from al-Muʿtamir (Yaḥyā's text); al-Muʿtamir ibn Sulaymān reported; from Ayyūb; narrating from Abu al-Khalīl; from ʿAbdullāh ibn al-Ḥārith; from Umm al-Faḍl; she said: **'A Bedouin came to the Prophet when he was in**

my home. He said: ‘Prophet of God, I had one wife and I married another. My first wife claimed that she suckled my second wife one or two feeds’. The Prophet said: ‘One or two feeds do not prohibit [marriage]’.

ʿAmr said in his narration: **‘from ʿAbdullāh ibn al-Ḥārith ibn Nawfal’.**

حَدَّثَنَا يَحْيَى بْنُ يَحْيَى، وَعَمْرٌو النَّاقِدُ، وَإِسْحَاقُ بْنُ إِبْرَاهِيمَ، كُلُّهُمْ عَنِ الْـمُعْتَمِرِ (وَاللَّفْظُ لِيَحْيَى)، أَخْبَرَنَا الْـمُعْتَمِرُ بْنُ سُلَيْمَانَ، عَنْ أَيُّوبَ، يُحَدِّثُ عَنْ أَبِي الْخَلِيلِ، عَنْ عَبْدِ اللهِ بْنِ الْحَارِثِ، عَنْ أُمِّ الْفَضْلِ، قَالَتْ: دَخَلَ أَعْرَابِيٌّ عَلَى نَبِيِّ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، وَهُوَ فِي بَيْتِي، فَقَالَ: يَا نَبِيَّ اللهِ، إِنِّي كَانَتْ لِي امْرَأَةٌ فَتَزَوَّجْتُ عَلَيْهَا أُخْرَى. فَزَعَمَتِ امْرَأَتِي الأُولَى أَنَّهَا أَرْضَعَتِ امْرَأَتِي الْحُدْثَى رَضْعَةً أَوْ رَضْعَتَيْنِ . فَقَالَ نَبِيُّ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «لا تُحَرِّمُ الإِمْلاَجَةُ وَالإِمْلاَجَتَانِ». قَالَ عَمْرٌو فِي رِوَايَتِهِ: عَنْ عَبْدِ اللهِ بْنِ الْحَارِثِ بْنِ نَوْفَلٍ.

[3158–19]. (Dar al-Salam 3416) Abu Ghassān al-Mismaʿī nar-rated to me: Muʿādh narrated [H]. Also, Ibn al-Muthannā and Ibn Bashshār narrated; both said: Muʿādh ibn Hishām narrated; my father narrated to me; from Qatādah; from Ṣāliḥ ibn Abi Maryam, Abi al-Khalīl; from ʿAbdullāh ibn al-Ḥārith; from Umm al-Faḍl; that **‘A man from [the tribe of] Banī ʿĀmir ibn Ṣaʿṣaʿah said: “Prophet of God, does one feed prohibit [marriage]?” The Prophet said: “No”.’**

وَحَدَّثَنِي أَبُو غَسَّانَ الْمِسْمَعِيُّ، حَدَّثَنَا مُعَاذٌ، ح. وَحَدَّثَنَا ابْنُ الْـمُثَنَّى، وَابْنُ بَشَّارٍ قَالا: حَدَّثَنَا مُعَاذُ بْنُ هِشَامٍ، حَدَّثَنِي أَبِي، عَنْ قَتَادَةَ، عَنْ صَالِحِ بْنِ أَبِي مَرْيَمَ أَبِي الْخَلِيلِ، عَنْ عَبْدِ اللهِ بْنِ الْحَارِثِ، عَنْ أُمِّ الْفَضْلِ، أَنَّ رَجُلاً مِنْ بَنِي عَامِرِ بْنِ صَعْصَعَةَ قَالَ: يَا نَبِيَّ اللهِ هَلْ تُحَرِّمُ الرَّضْعَةُ الْوَاحِدَةُ؟ قَالَ: «لا».

[3159–20]. (Dar al-Salam 3417) Abu Bakr ibn Abi Shaybah narrated: Muhammad ibn Bishr narrated; Saʿīd ibn Abi ʿArūbah narrated; from Qatādah; from Abu al-Khalīl; from ʿAbdullāh ibn al-Ḥārith; that Umm al-Faḍl narrated; that the Prophet (peace be upon him) said: **‘One or two feeds do not prohibit [marriage]; nor does a drop or two’.**

حَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا مُحَمَّدُ بْنُ بِشْرٍ، حَدَّثَنَا سَعِيدُ بْنُ أَبِي عَرُوبَةَ، عَنْ قَتَادَةَ، عَنْ أَبِي الْخَلِيلِ، عَنْ عَبْدِ اللهِ بْنِ الْحَارِثِ، أَنَّ أُمَّ الْفَضْلِ حَدَّثَتْ أَنَّ نَبِيَّ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: «لا تُحَرِّمُ الرَّضْعَةُ أَوِ الرَّضْعَتَانِ، أَوِ الْـمَصَّةُ أَوِ الْـمَصَّتَانِ».

[3160–21]. (Dar al-Salam 3418) Abu Bakr ibn Abi Shaybah and Isḥāq ibn Ibrāhīm narrated; both from ʿAbdah ibn Sulaymān; from Ibn Abi ʿArūbah; with the same chain of transmission: **the same text. However, Isḥāq said the same as Ibn Bishr’s version: ‘or two feeds, or two drops’, while Ibn Abi Shaybah said: ‘and two feeds, and two drops’.**

وَحَدَّثَنَاهُ أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، وَإِسْحَاقُ بْنُ إِبْرَاهِيمَ، جَمِيعًا عَنْ عَبْدَةَ بْنِ سُلَيْمَانَ، عَنِ ابْنِ أَبِي عَرُوبَةَ، بِهَذَا الإِسْنَادِ. أَمَّا إِسْحَاقُ فَقَالَ كَرِوَايَةِ ابْنِ بِشْرٍ. «أَوِ الرَّضْعَتَانِ أَوِ الْـمَصَّتَانِ». وَأَمَّا ابْنُ أَبِي شَيْبَةَ فَقَالَ: «وَالرَّضْعَتَانِ وَالْـمَصَّتَانِ».

[3161–22]. (Dar al-Salam 3419) Ibn Abi ʿUmar narrated: Bishr ibn al-Sariy narrated; Ḥammād ibn Salamah narrated; from Qatādah; from Abu al-Khalīl; from ʿAbdullāh ibn al-Ḥārith ibn Nawfal; from Umm al-Faḍl; from the Prophet (peace be upon him). He said: **‘One or two feeds do not prohibit [marriage]’.**

وَحَدَّثَنَا ابْنُ أَبِي عُمَرَ، حَدَّثَنَا بِشْرُ بْنُ السَّرِيِّ، حَدَّثَنَا حَمَّادُ بْنُ سَلَمَةَ، عَنْ قَتَادَةَ، عَنْ أَبِي الْخَلِيلِ، عَنْ عَبْدِ اللهِ بْنِ الْحَارِثِ بْنِ نَوْفَلٍ، عَنْ أَمِّ الْفَضْلِ، عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: «لا تُحَرِّمُ الإِمْلاَجَةُ وَالإِمْلاَجَتَانِ».

[3162–23]. (Dar al-Salam 3420) Ahmad ibn Saʿīd al-Dārimī narrated to me: Ḥabbān narrated; Hammām narrated; Qatādah narrated; from Abu al-Khalīl; from ʿAbdullāh ibn al-Ḥārith; from Umm al-Faḍl: **‘A man asked the Prophet (peace be upon him): “Does one feed prohibit [marriage]?” The Prophet said: “No”.’**

حَدَّثَنِي أَحْمَدُ بْنُ سَعِيدٍ الدَّارِمِيُّ، حَدَّثَنَا حَبَّانُ، حَدَّثَنَا هَمَّامٌ، حَدَّثَنَا قَتَادَةُ، عَنْ أَبِي الْخَلِيلِ، عَنْ عَبْدِ اللهِ بْنِ الْحَارِثِ، عَنْ أُمِّ الْفَضْلِ، سَأَلَ رَجُلٌ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: أَتُحَرِّمُ الْـمَصَّةُ؟ فَقَالَ: «لا».

i. Related by Abu Dāwūd, 2063; al-Tirmidhī, 1150; al-Nasā’ī, 3310; Ibn Mājah, 1941.
ii. Related by al-Nasā’ī, 3308; Ibn Mājah, 1940.

CHAPTER 6

FIVE FEEDS TO BLOCK MARRIAGES

[3163–24]. (Dar al-Salam 3421) Yaḥyā ibn Yaḥyā narrated:[i] he said: I read out to Mālik; from ʿAbdullāh ibn Abi Bakr; from ʿAmrah; from ʿĀ’ishah; that she said: **‘What was revealed of the Qur’an included: ten known feeds prohibit marriages. Then this was abrogated by five known feeds. God’s Messenger (peace be upon him) passed away and they were still being recited as part of the Qur’an’.**

حَدَّثَنَا يَحْيَى بْنُ يَحْيَى، قَالَ قَرَأْتُ عَلَى مَالِكٍ، عَنْ عَبْدِ اللهِ بْنِ أَبِي بَكْرٍ، عَنْ عَمْرَةَ، عَنْ عَائِشَةَ أَنَّهَا قَالَتْ: كَانَ فِيمَا أُنْزِلَ مِنَ الْقُرْآنِ عَشْرُ رَضَعَاتٍ مَعْلُومَاتٍ يُحَرِّمْنَ . ثُمَّ نُسِخْنَ بِخَمْسٍ مَعْلُومَاتٍ. فَتُوُفِّيَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، وَهُنَّ فِيمَا يُقْرَأُ مِنَ الْقُرْآنِ.

[3164–25]. (Dar al-Salam 3422-3423) ʿAbdullāh ibn Maslamah al-Qaʿnabī narrated: Sulaymān ibn Bilāl narrated; from Yaḥyā (who is Ibn Saʿīd); from ʿAmrah; that she heard ʿĀ’ishah say (as she was mentioning the breastfeeding that prohibits marriages). ʿAmrah said: ʿĀ’ishah said: **‘It was revealed in the Qur’an: ten known feeds. It was subsequently revealed: five known’.**

حَدَّثَنَا عَبْدُ اللهِ بْنُ مَسْلَمَةَ الْقَعْنَبِيُّ، حَدَّثَنَا سُلَيْمَانُ بْنُ بِلاَلٍ، عَنْ يَحْيَى (وَهُوَ ابْنُ سَعِيدٍ)، عَنْ عَمْرَةَ، أَنَّهَا سَمِعَتْ عَائِشَةَ تَقُولُ - وَهْىَ تَذْكُرُ الَّذِي يُحَرِّمُ مِنَ الرَّضَاعَةِ - قَالَتْ عَمْرَةُ: فَقَالَتْ عَائِشَةُ: نَزَلَ فِي الْقُرْآنِ عَشْرُ رَضَعَاتٍ مَعْلُومَاتٍ، ثُمَّ نَزَلَ أَيْضًا خَمْسٌ مَعْلُومَاتٌ.

Muhammad ibn al-Muthannā narrated: ʿAbd al-Wahhāb narrated; he said: I heard Yaḥyā ibn Saʿīd; he said: ʿAmrah informed me that she heard ʿĀ’ishah say: **the same text.**

وَحَدَّثَنَاهُ مُحَمَّدُ بْنُ الْـمُثَنَّى، حَدَّثَنَا عَبْدُ الْوَهَّابِ، قَالَ سَمِعْتُ يَحْيَى بْنَ سَعِيدٍ، قَالَ أَخْبَرَتْنِي عَمْرَةُ، أَنَّهَا سَمِعَتْ عَائِشَةَ تَقُولُ: بِمِثْلِهِ.

Text Explanation

The hadiths in these two chapters mention that the Prophet said on more than one occasion that to breastfeed a child, other than one's own, once or twice does not lead to the blockage of marriages between that child and the relatives of the breastfeeding woman. Hadith No. 3163 mentions that it was first revealed in the Qur'an that ten feeds were necessary to block marriages. Then this was abrogated to make the number of feeds five. 'God's Messenger (peace be upon him) passed away and they were still being recited as part of the Qur'an'. What this means is that the abrogation of this verse mentioning five feeds occurred very late in the Prophet's life and that he passed away when some people were still reciting the relevant verse, thinking that it was part of the Qur'an. They were unaware of its abrogation. When they learnt of the abrogation all Muslims were in agreement that this does not form part of the Qur'an.

Abrogation is of three types: 1) the ruling and the text are both removed, as in the case of the text mentioning ten feeds; 2) what is abrogated as text but its ruling remains in force, such as the five feeds limit; and 3) what is abrogated as a ruling but continues to be recited as part of the Qur'an. This last type is the most frequent, but God knows best.

Scholars differ concerning the amount of breastfeeding that brings the ruling into force. ʿĀ'ishah, al-Shāfiʿī and his disciples said that the minimum is five feeds. The majority of scholars said that the ruling applies with one feed. Ibn al-Mundhir reports this view from ʿAlī, Ibn Masʿūd, Ibn ʿUmar, Ibn ʿAbbās, ʿAṭā', Ṭāwūs, Ibn al-Musayyib, al-Ḥasan, Makḥūl, al-Zuhrī, Qatādah, al-Ḥakam, Mālik, al-Awzāʿī; al-Thawrī and Abu Ḥanīfah (may God be pleased with them all). Abu Thawr, Abu ʿUbayd, Ibn al-Mundhir and Dāwūd said that the ruling is enforced with three feeds, but not less.

Al-Shāfiʿī and those who share his view rely on the hadith narrated by ʿĀ'ishah, which mentions 'five known feeds'. Mālik cites the verse that

lists prohibited marriages and includes: ‘Your mothers who have given suck to you’. (4: 23) It does not mention any number. Dāwūd considered the meaning of the hadith stating that one or two feeds do not prohibit marriages, saying that it clarifies what is unspecified in the Qur’an.

Shāfiʿī scholars objected to the Mālikī view saying that their argument would have been valid had the Qur’anic verse said, ‘and the women who have given suck to you are your mothers’. On the other hand, the Mālikīs objected to the Shāfiʿī view saying that the hadith narrated by ʿĀ’ishah is normally discounted by the Shāfiʿīs and leading scholars of legal theory [i.e., *uṣūl al-fiqh*] because the Qur’an is not confirmed when it is singly-reported. As this cannot be confirmed as part of the Qur’an, it cannot be confirmed as having been stated by the Prophet (peace be upon him). This is based on the principle that if a singly-reported statement is subject to questioning of validity, it is discounted. As this is narrated only by single reporters, although it is normally narrated by many, it becomes suspect, but God knows best.

Shāfiʿī scholars objected to the Mālikī view citing the hadith mentioning that one or two feeds do not prohibit marriages. The Mālikīs responded with some invalid arguments that are not worth mentioning, but I am listing them so that people are aware of their invalidity. Some claim that the relevant ruling is abrogated, but this is a false claim and cannot be upheld without evidence. Another claim is that the hadith is *mawqūf*, i.e., stated by ʿĀ’ishah and not attributed to the Prophet. This is a gross mistake. Muslim and other scholars state it with authentic chains of transmission, going up to the Prophet and narrated by ʿĀ’ishah and Umm al-Faḍl. Another claim is that the hadith is inconsistent, which is a gross error. Indeed, it is an audacious attempt to reject the sunnah on the basis of personal view, claiming weakness where there is clear authenticity, only to support one’s school. Many well-known hadiths do mention a number of feeds for the prohibition of marriages to operate. The correct thing is that such a number is required. *Qadi* ʿIyāḍ said: ‘Some people take an odd view

saying that breastfeeding does not cause the prohibition of marriages unless ten feeds are completed. This is certainly false and cannot be considered, but God knows best.

i. Related by Abu Dāwūd, 2062; al-Tirmidhī, 1150; al-Nasā’ī, 3307; Ibn Mājah, 1944.

CHAPTER 7

SUCKLING AN ADULT

[3165–26]. (Dar al-Salam 3424) ʿAmr al-Nāqid and Ibn Abi ʿUmar narrated:[i] both said: Sufyān ibn ʿUyaynah narrated; from ʿAbd al-Raḥmān ibn al-Qāsim; from his father; from ʿĀ'ishah. She said: **'Sahlah bint Suhayl came to the Prophet and said: "Messenger of God, I see Abu Ḥudhayfah's face changing when Sālim (who is his ally) comes in". The Prophet said: "Suckle him". She said: "How can I suckle him when he is an adult man?" The Prophet smiled and said: "I know that he is an adult".'**

ʿAmr added in his narration**: 'He took part in the Battle of Badr', and in Ibn Abi ʿUmar's narration: 'God's Messenger laughed'.**

حَدَّثَنَا عَمْرٌو النَّاقِدُ، وَابْنُ أَبِي عُمَرَ، قَالا: حَدَّثَنَا سُفْيَانُ بْنُ عُيَيْنَةَ، عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْقَاسِمِ، عَنْ أَبِيهِ، عَنْ عَائِشَةَ قَالَتْ: جَاءَتْ سَهْلَةُ بِنْتُ سُهَيْلٍ إِلَى النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَقَالَتْ: يَا رَسُولَ اللهِ، إِنِّي أَرَى فِي وَجْهِ أَبِي حُذَيْفَةَ مِنْ دُخُولِ سَالِمٍ - وَهُوَ حَلِيفُهُ . فَقَالَ النَّبِيُّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «أَرْضِعِيهِ». قَالَتْ: وَكَيْفَ أُرْضِعُهُ وَهُوَ رَجُلٌ كَبِيرٌ؟ فَتَبَسَّمَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ وَقَالَ: «قَدْ عَلِمْتُ أَنَّهُ رَجُلٌ كَبِيرٌ».

زَادَ عَمْرٌو فِي حَدِيثِهِ: وَكَانَ قَدْ شَهِدَ بَدْرًا . وَفِي رِوَايَةِ ابْنِ أَبِي عُمَرَ: فَضَحِكَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ.

[3166–27]. (Dar al-Salam 3425) Isḥāq ibn Ibrāhīm al-Ḥanẓalī and Muhammad ibn Abi ʿUmar narrated:[ii] both from al-Thaqafī. Ibn Abi ʿUmar said: ʿAbd al-Wahhāb al-Thaqafī narrated; from Ayyūb; from Ibn Abi Mulaykah; from al-Qāsim; from ʿĀ’ishah; that **‘Sālim, Abu Ḥudhayfah’s *mawlā*, lived with Abu Ḥudhayfah and his family in their home. She (meaning [Sahlah] bint Suhayl) came to the Prophet (peace be upon him) and said: “Sālim has attained adulthood and understands what men understand. He comes into our home, and I believe that Abu Ḥudhayfah has some misgivings about this”. The Prophet said to her: “Suckle him and you will be prohibited for him [to marry], and Abu Ḥudhayfah’s misgivings will disappear”. She came back later and said: “I have suckled him and what was in Abu Ḥudhayfah’s mind has gone”.’**

وَحَدَّثَنَا إِسْحَاقُ بْنُ إِبْرَاهِيمَ الْحَنْظَلِيُّ، وَمُحَمَّدُ بْنُ أَبِي عُمَرَ، جَمِيعًا عَنِ الثَّقَفِيِّ. قَالَ ابْنُ أَبِي عُمَرَ حَدَّثَنَا عَبْدُ الْوَهَّابِ الثَّقَفِيُّ، عَنْ أَيُّوبَ، عَنِ ابْنِ أَبِي مُلَيْكَةَ، عَنِ الْقَاسِمِ، عَنْ عَائِشَةَ، أَنَّ سَالِمًا، مَوْلَى أَبِي حُذَيْفَةَ، كَانَ مَعَ أَبِي حُذَيْفَةَ وَأَهْلِهِ فِي بَيْتِهِمْ. فَأَتَتْ - تَعْنِي ابْنَةَ سُهَيْلٍ - النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَقَالَتْ: إِنَّ سَالِمًا قَدْ بَلَغَ مَا يَبْلُغُ الرِّجَالُ، وَعَقَلَ مَا عَقَلُوا. وَإِنَّهُ يَدْخُلُ عَلَيْنَا، وَإِنِّي أَظُنُّ أَنَّ فِي نَفْسِ أَبِي حُذَيْفَةَ مِنْ ذَلِكَ شَيْئًا . فَقَالَ لَهَا النَّبِيُّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: أَرْضِعِيهِ تَحْرُمِي

عَلَيْهِ، وَيَذْهَبِ الَّذِي فِي نَفْسِ أَبِي حُذَيْفَةَ». فَرَجَعَتْ فَقَالَتْ: إِنِّي قَدْ أَرْضَعْتُهُ فَذَهَبَ الَّذِي فِي نَفْسِ أَبِي حُذَيْفَةَ.

[3167–28]. (Dar al-Salam 3426) Isḥāq ibn Ibrāhīm and Muhammad ibn Rāfiʿ narrated (Ibn Rāfiʿ's text): he said: ʿAbd al-Razzāq narrated; Ibn Jurayj reported; Ibn Abi Mulaykah reported; that al-Qāsim ibn Muhammad ibn Abi Bakr told him; that ʿĀ'ishah told him that **'Sahlah bint Suhayl ibn ʿAmr came to the Prophet (peace be upon him) and said: "Messenger of God, Sālim (meaning Sālim, Abu Ḥudhayfah's *mawlā*) is living with us in our home. He is now an adult and knows what men know". The Prophet said: "Suckle him and you will be prohibited for him [to marry]".'**

He [i.e., Ibn Abi Mulaykah] said: **'I remained a year or close to it without narrating it to anyone. I feared to do it. I then met al-Qāsim and said to him: "You narrated to me a hadith and I have not narrated it to anyone". He said: "Which one?" I mentioned it to him. He said: "narrate it from me stating that ʿĀ'ishah narrated it to me".**

وَحَدَّثَنَا إِسْحَاقُ بْنُ إِبْرَاهِيمَ، وَمُحَمَّدُ بْنُ رَافِعٍ (وَاللَّفْظُ لِابْنِ رَافِعٍ)، قَالَ: حَدَّثَنَا عَبْدُ الرَّزَّاقِ، أَخْبَرَنَا ابْنُ جُرَيْجٍ، أَخْبَرَنَا ابْنُ أَبِي مُلَيْكَةَ، أَنَّ الْقَاسِمَ بْنَ مُحَمَّدِ بْنِ أَبِي بَكْرٍ، أَخْبَرَهُ أَنَّ عَائِشَةَ أَخْبَرَتْهُ، أَنَّ سَهْلَةَ بِنْتَ سُهَيْلِ بْنِ عَمْرٍو جَاءَتِ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَقَالَتْ يَا رَسُولَ اللهِ إِنَّ سَالِمًا - لِسَالِمٍ مَوْلَى أَبِي حُذَيْفَةَ - مَعَنَا فِي بَيْتِنَا، وَقَدْ بَلَغَ مَا يَبْلُغُ الرِّجَالُ، وَعَلِمَ مَا يَعْلَمُ الرِّجَالُ . قَالَ: «أَرْضِعِيهِ تَحْرُمِي عَلَيْه».

قَالَ فَمَكَثْتُ سَنَةً أَوْ قَرِيبًا مِنْهَا لاَ أَحَدِّثُ بِهِ، وَهِبْتُهُ. ثُمَّ لَقِيتُ الْقَاسِمَ فَقُلْتُ لَهُ: لَقَدْ حَدَّثْتَنِي حَدِيثًا مَا حَدَّثْتُهُ بَعْدُ . قَالَ: فَمَا هُوَ؟ فَأَخْبَرْتُهُ . قَالَ فَحَدِّثْهُ عَنِّي أَنَّ عَائِشَةَ أَخْبَرَتْنِيهِ.

[3168–29]. (Dar al-Salam 3427) Muhammad ibn al-Muthannā narrated:[iii] Muhammad ibn Jaʿfar narrated; Shuʿbah narrated; from Ḥumayd ibn Nāfiʿ; from Zaynab bint Umm Salamah. She said: **‘Umm Salamah said to ʿĀ’ishah: “You admit a boy who is a youth and who I would not like to admit into my home”.** ʿĀ’ishah said: **“Is not God’s Messenger (peace be upon him) a good example for you to follow? Abu Ḥudhayfah’s wife said: “Messenger of God, Sālim enters my home, and he is an adult. Abu Ḥudhayfah seems displeased because of that”. God’s Messenger said: “Suckle him so that he can enter your home”.’**

وَحَدَّثَنَا مُحَمَّدُ بْنُ الْـمُثَنَّى، حَدَّثَنَا مُحَمَّدُ بْنُ جَعْفَرٍ، حَدَّثَنَا شُعْبَةُ، عَنْ حُمَيْدِ بْنِ نَافِعٍ، عَنْ زَيْنَبَ بِنْتِ أُمِّ سَلَمَةَ قَالَتْ: قَالَتْ أُمُّ سَلَمَةَ لِعَائِشَةَ: إِنَّهُ يَدْخُلُ عَلَيْكِ الْغُلاَمُ الأَيْفَعُ الَّذِي مَا أُحِبُّ أَنْ يَدْخُلَ عَلَيَّ . قَالَ فَقَالَتْ عَائِشَةُ: أَمَا لَكِ فِي رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ أُسْوَةٌ؟ قَالَتْ: إِنَّ امْرَأَةَ أَبِي حُذَيْفَةَ قَالَتْ: يَا رَسُولَ اللهِ إِنَّ سَالِمًا يَدْخُلُ عَلَيَّ وَهُوَ رَجُلٌ، وَفِي نَفْسِ أَبِي حُذَيْفَةَ مِنْهُ شَيْءٌ . فَقَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «أَرْضِعِيهِ حَتَّى يَدْخُلَ عَلَيْكِ».

[3169–30]. (Dar al-Salam 3428) Abu al-Ṭāhir and Ḥārūn ibn Saʿīd al-Aylī narrated to me (Ḥārūn’s text): both said: Ibn Wahb narrated; Makhramah ibn Bukayr reported to me; from his father; he said: I

heard Ḥumayd ibn Nāfiʿ say: I heard Zaynab bint Abu Salamah say: **‘I heard Umm Salamah, the Prophet’s wife, say to ʿĀ’ishah: “By God, I am uneasy if I am seen by a boy who has no need for suckling”. [ʿĀ’ishah] said: “Why not? Sahlah bint Suhayl came to God’s Messenger (peace be upon him) and said: ‘Messenger of God, by God, I see [displeasure] in Abu Ḥudhayfah’s face because of Sālim’s entry’. God’s Messenger said to her: ‘Suckle him’. She said: ‘He has a beard’. He said: ‘Suckle him, and what appears in Abu Ḥudhayfah’s face will be gone’.**

She said: ‘By God I no longer noticed it in Abu Ḥudhayfah’s face’.”’

وَحَدَّثَنِي أَبُو الطَّاهِرِ، وَهَارُونُ بْنُ سَعِيدٍ الأَيْلِيُّ، (وَاللَّفْظُ لِهَارُونَ)، قَالا: حَدَّثَنَا ابْنُ وَهْبٍ، أَخْبَرَنِي مَخْرَمَةُ بْنُ بُكَيْرٍ، عَنْ أَبِيهِ، قَالَ سَمِعْتُ حُمَيْدَ بْنَ نَافِعٍ يَقُولُ: سَمِعْتُ زَيْنَبَ بِنْتَ أَبِي سَلَمَةَ تَقُولُ: سَمِعْتُ أُمَّ سَلَمَةَ، زَوْجَ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ تَقُولُ لِعَائِشَةَ: وَاللهِ مَا تَطِيبُ نَفْسِي أَنْ يَرَانِي الْغُلاَمُ قَدِ اسْتَغْنَى عَنِ الرَّضَاعَةِ . فَقَالَتْ: لِمَ؟ قَدْ جَاءَتْ سَهْلَةُ بِنْتُ سُهَيْلٍ إِلَى رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَقَالَتْ: يَا رَسُولَ اللهِ وَاللهِ إِنِّي لأَرَى فِي وَجْهِ أَبِي حُذَيْفَةَ مِنْ دُخُولِ سَالِمٍ . قَالَتْ: فَقَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «أَرْضِعِيهِ». فَقَالَتْ: إِنَّهُ ذُو لِحْيَةٍ . فَقَالَ: «أَرْضِعِيهِ يَذْهَبْ مَا فِي وَجْهِ أَبِي حُذَيْفَةَ». فَقَالَتْ: وَاللهِ مَا عَرَفْتُهُ فِي وَجْهِ أَبِي حُذَيْفَة.

[3170–31]. (Dar al-Salam 3429) ʿAbd al-Malik ibn Shuʿayb ibn al-Layth narrated to me:[iv] my father narrated to me; from my

grandfather; ʿUqayl ibn Khālid narrated to me; from Ibn Shihāb; that he said: Abu ʿUbaydah ibn ʿAbdullāh ibn Zamʿah reported to me; that his mother, Zaynab bint Abu Salamah informed him that her mother, Umm Salamah, the Prophet's wife said: **'All other wives of the Prophet (peace be upon him) refused to let anyone come into their homes with such a suckling. They said to ʿĀ'ishah: "By God, we only see this case as a concession God's Messenger (peace be upon him) granted to Sālim in particular. No one shall enter our homes or see us on the basis of such a suckle".'**

حَدَّثَنِي عَبْدُ الْـمَلِكِ بْنُ شُعَيْبِ بْنِ اللَّيْثِ، حَدَّثَنِي أَبِي، عَنْ جَدِّي، حَدَّثَنِي عُقَيْلُ بْنُ خَالِدٍ، عَنِ ابْنِ شِهَابٍ أَنَّهُ قَالَ: أَخْبَرَنِي أَبُو عُبَيْدَةَ بْنُ عَبْدِ اللهِ بْنِ زَمْعَةَ، أَنَّ أُمَّهُ، زَيْنَبَ بِنْتَ أَبِي سَلَمَةَ، أَخْبَرَتْهُ أَنَّ أُمَّهَا، أُمَّ سَلَمَةَ زَوْجَ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، كَانَتْ تَقُولُ أَبَى سَائِرُ أَزْوَاجِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ أَنْ يُدْخِلْنَ عَلَيْهِنَّ أَحَدًا بِتِلْكَ الرَّضَاعَةِ، وَقُلْنَ لِعَائِشَةَ: وَاللهِ مَا نَرَى هَذَا إِلاَّ رُخْصَةً أَرْخَصَهَا رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ لِسَالِمٍ خَاصَّةً. فَمَا هُوَ بِدَاخِلٍ عَلَيْنَا أَحَدٌ بِهَذِهِ الرَّضَاعَةِ وَلاَ رَائِينَا.

Text Explanation

In this chapter, Muslim enters the hadiths concerning the case of Sahlah, Abu Ḥudhayfah's wife, and her suckling of Sālim when he was an adult.[v] Scholars differ concerning this issue, with ʿĀ'ishah and Dāwūd saying that suckling a man leads to blocking marriages in the same way as suckling a baby. They cite this hadith in support of this view. All other scholars of the Prophet's Companions, the following generation of the *tābiʿin*, and successive generations up to the present hold the view that only suckling a child below two years of age blocks marriages. The exceptions are: Abu Ḥanīfah, who sets the date at two and a half years, while Zufar said three years, and one report from Mālik gives the maximum as two years and a few days. The majority of scholars rely in their ruling on the Qur'anic verse: 'Mothers may breastfeed their children for two whole years; that is for those who wish to complete the suckling'. (2: 233) They also cite the hadith entered in the next chapter stating that breastfeeding is what settles hunger, as well as other well-known hadiths. They consider the hadith related to Sahlah as dealing with her own special case with Sālim. Muslim relates from Umm Salamah and all the other wives of the Prophet that they disagreed with ʿĀ'ishah on this matter, but God knows best.

The Prophet told Sahlah to suckle Sālim. *Qadi* ʿIyāḍ said: 'Perhaps she expressed her milk and Sālim drank it without touching her breast, and there was no skin-to-skin contact'. This statement by *Qadi* ʿIyāḍ is fine, but it is also possible that he was exempted from touching it as this was needed, in the same way as he was given this special dispensation of suckling when he was an adult, but God knows best.

In hadith No. 3168, Umm Salamah says to ʿĀ'ishah: 'You admit a boy who is a youth'. She uses the word *ayfaʿ*, which means 'one who is approaching puberty, but has not attained it yet'.

i. Related by al-Nasā’ī, 3320 and Ibn Mājah, 1943.
ii. Related by al-Nasā’ī, 3322 and 3323.
iii. Related by al-Nasā’ī, 3319.
iv. Related by al-Nasā’ī, 3325; Ibn Mājah, 1947.
v. Sālim was a slave boy owned by Abu Hudhayfah, but Abu Hudhayfah set him free. All three: Sālim, Sahlah and her husband were among the very early Muslims, and they migrated with the Prophet to Madinah. Sālim was a fine reciter and memorizer of the Qur’an and a devoted Companion of the Prophet.

CHAPTER 8

SUCKLING AND HUNGER

[3171–32]. (Dar al-Salam 3430-3431) Hannād ibn al-Sariy narrated:[i] Abu al-Aḥwaṣ narrated; from Ashʿath ibn Abu al-Shaʿthā’; from his father; from Masrūq. ʿĀ’ishah said: **‘God’s Messenger (peace be upon him) entered my home when I had a man sitting. He found this difficult, and I saw anger in his face. I said: “Messenger of God, he is my suckling brother”. He said: “Be careful whom you consider your suckling brothers. Breastfeeding is what satisfies hunger”.’**

حَدَّثَنَا هَنَّادُ بْنُ السَّرِيِّ، حَدَّثَنَا أَبُو الأَحْوَصِ، عَنْ أَشْعَثَ بْنِ أَبِي الشَّعْثَاءِ، عَنْ أَبِيهِ، عَنْ مَسْرُوقٍ قَالَ: قَالَتْ عَائِشَةُ: دَخَلَ عَلَيَّ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ وَعِنْدِي رَجُلٌ قَاعِدٌ. فَاشْتَدَّ ذَلِكَ عَلَيْهِ، وَرَأَيْتُ الْغَضَبَ فِي وَجْهِهِ. قَالَتْ: فَقُلْتُ يَا رَسُولَ اللهِ إِنَّهُ أَخِي مِنَ الرَّضَاعَةِ . قَالَتْ فَقَالَ: «انْظُرْنَ إِخْوَتَكُنَّ مِنَ الرَّضَاعَةِ، فَإِنَّمَا الرَّضَاعَةُ مِنَ الْـمَجَاعَةِ».

Muhammad ibn al-Muthannā and Ibn Bashshār narrated: both said: Muhammad ibn Jaʿfar narrated [H]. Also, ʿUbaydullāh ibn Muʿādh narrated; my father narrated; both said: Shuʿbah narrated [H]. And Abu Bakr ibn Abi Shaybah narrated; Wakīʿ narrated [H]. Further, Zuhayr ibn Ḥarb narrated to me; ʿAbd al-Raḥmān ibn Mahdī narrated; all from Sufyān [H]. Also, ʿAbd ibn Ḥumayd narrated;

Ḥusayn al-Juʿfī narrated; from Zā’idah; all from Ashʿath ibn Abi al-Shaʿthā’; with Abu al-Aḥwaṣ’s chain of transmission: **the same meaning as his text, but they said: ‘to satisfy hunger’.**

وَحَدَّثَنَاهُ مُحَمَّدُ بْنُ الْـمُثَنَّى، وَابْنُ بَشَّارٍ قَالا: حَدَّثَنَا مُحَمَّدُ بْنُ جَعْفَرٍ، ح. وَحَدَّثَنَا عُبَيْدُ اللهِ بْنُ مُعَاذٍ، حَدَّثَنَا أَبِي، قَالا جَمِيعًا: حَدَّثَنَا شُعْبَةُ، ح. وَحَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا وَكِيعٌ، ح. وَحَدَّثَنِي زُهَيْرُ بْنُ حَرْبٍ، حَدَّثَنَا عَبْدُ الرَّحْمَنِ بْنُ مَهْدِيٍّ، جَمِيعًا عَنْ سُفْيَانَ، ح. وَحَدَّثَنَا عَبْدُ بْنُ حُمَيْدٍ، حَدَّثَنَا حُسَيْنٌ الْجُعْفِيُّ، عَنْ زَائِدَةَ، كُلُّهُمْ عَنْ أَشْعَثَ بْنِ أَبِي الشَّعْثَاءِ، بِإِسْنَادِ أَبِي الأَحْوَصِ، كَمَعْنَى حَدِيثِهِ، غَيْرَ أَنَّهُمْ قَالُوا: «مِنَ الْـمَجَاعَةِ».

Text Explanation

Imam al-Nawawī does not include any explanation of this hadith, considering that what has been said in the earlier chapters to be sufficient.

We may say that this hadith confirms the other hadith in which the Prophet describes breastfeeding to be ‘only what strengthens the bones and causes flesh to grow’. Needless to say, this applies only to babies who have not completed two years of age.

i. Related by al-Bukhari, 2647 and 5102; Abu Dāwūd, 2058; al-Nasā’ī, 3312; Ibn Mājah, 1945.

CHAPTER 9

PERMISSIBILITY OF INTERCOURSE WITH SLAVE WOMEN

[3172–33]. (Dar al-Salam 3432) ʿUbaydullāh ibn ʿUmar ibn Maysarah al-Qawārīrī narrated:[i] Yazīd ibn Zurayʿ narrated; Saʿīd ibn Abi ʿArūbah narrated; from Qatādah; from Ṣāliḥ Abi al-Khalīl; from Abu ʿAlqamah al-Hāshimī; from Abu Saʿīd al-Khudrī; that **‘At the time of Ḥunayn, God’s Messenger dispatched an army to Awṭās, and they encountered an enemy. They fought and defeated them, taking some of their women captive. Some of the Prophet’s companions felt reluctant to consort with them as they had husbands who were unbelievers. God then revealed: “And [forbidden to you are] all married women, other than those whom your right hands possess”. (4: 24) This means that they are lawful to you when they have completed their waiting periods’.**

حَدَّثَنَا عُبَيْدُ اللهِ بْنُ عُمَرَ بْنِ مَيْسَرَةَ الْقَوَارِيرِيُّ، حَدَّثَنَا يَزِيدُ بْنُ زُرَيْعٍ، حَدَّثَنَا سَعِيدُ بْنُ أَبِي عَرُوبَةَ، عَنْ قَتَادَةَ، عَنْ صَالِحٍ أَبِي الْخَلِيلِ، عَنْ أَبِي عَلْقَمَةَ الْهَاشِمِيِّ، عَنْ أَبِي سَعِيدٍ الْخُدْرِيِّ، أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ يَوْمَ حُنَيْنٍ بَعَثَ جَيْشًا إِلَى أَوْطَاسٍ، فَلَقُوا عَدُوًّا فَقَاتَلُوهُمْ، فَظَهَرُوا عَلَيْهِمْ، وَأَصَابُوا لَهُمْ سَبَايَا. فَكَأَنَّ نَاسًا مِنْ أَصْحَابِ رَسُولِ اللهِ

صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ تَحَرَّجُوا مِنْ غِشْيَانِهِنَّ، مِنْ أَجْلِ أَزْوَاجِهِنَّ مِنَ الْـمُشْرِكِينَ. فَأَنْزَلَ اللهُ عَزَّ وَجَلَّ فِي ذَلِكَ: «وَالْـمُحْصَنَاتُ مِنَ النِّسَاءِ إِلاَّ مَا مَلَكَتْ أَيْمَانُكُمْ»، أيْ فَهُنَّ لَكُمْ حَلاَلٌ إِذَا انْقَضَتْ عِدَّتُهُنَّ.

[3173–34]. (Dar al-Salam 3433-3434) Abu Bakr ibn Abi Shaybah, Muhammad ibn al-Muthannā and Ibn Bashshār narrated: they said: ʿAbd al-Aʿlā narrated; from Saʿīd; from Qatādah; from Abu al-Khalīl; that Abu ʿAlqamah al-Hāshimī narrated; that Abu Saʿīd al-Khudrī narrated to them; that **‘God’s Prophet (peace be upon him) sent an expedition at the time of Ḥunayn…’ adding the same meaning as Yazīd ibn Zurayʿ’s narration, except that he said: ‘excepted are those of them your right hands possess; these are lawful to you’, but did not mention: ‘when they have completed their waiting periods’.**

وَحَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، وَمُحَمَّدُ بْنُ الْـمُثَنَّى، وَابْنُ بَشَّارٍ قَالُوا: حَدَّثَنَا عَبْدُ الأَعْلَى، عَنْ سَعِيدٍ، عَنْ قَتَادَةَ، عَنْ أَبِي الْخَلِيلِ، أَنَّ أَبَا عَلْقَمَةَ الْهَاشِمِيَّ، حَدَّثَ أَنَّ أَبَا سَعِيدٍ الْخُدْرِيَّ حَدَّثَهُمْ، أَنَّ نَبِيَّ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ بَعَثَ يَوْمَ حُنَيْنٍ سَرِيَّةً . بِمَعْنَى حَدِيثِ يَزِيدَ بْنِ زُرَيْعٍ، غَيْرَ أَنَّهُ قَالَ: إِلاَّ مَا مَلَكَتْ أَيْمَانُكُمْ مِنْهُنَّ فَحَلاَلٌ لَكُمْ. وَلَمْ يَذْكُرْ إِذَا انْقَضَتْ عِدَّتُهُنَّ.

Yaḥyā ibn Ḥabīb al-Ḥārithī narrated it to me: Khālid (meaning Ibn al-Ḥārith) narrated; Shuʿbah narrated; from Qatādah; with the same chain of transmission: **a similar text.**

وَحَدَّثَنِيهِ يَحْيَى بْنُ حَبِيبٍ الْحَارِثِيُّ، حَدَّثَنَا خَالِدٌ (يَعْنِي ابْنَ الْحَارِثِ)، حَدَّثَنَا شُعْبَةُ، عَنْ قَتَادَةَ، بِهَذَا الإِسْنَادِ: نَحْوَهُ.

[3174–35].[ii] Yaḥyā ibn Ḥabīb al-Ḥārithī narrated:[iii] Khālid ibn al-Ḥārith narrated; Shuʿbah narrated; from Qatādah; from Abu al-Khalīl; from Abu Saʿīd. He said: **‘They captured women slaves on the Day of Awṭās, and they had husbands. They held back, but this verse was revealed: “And [forbidden to you are] all married women, other than those whom your right hands possess”.’ (4: 24)**

وَحَدَّثَنِيهِ يَحْيَى بْنُ حَبِيبٍ الْحَارِثِيُّ، حَدَّثَنَا خَالِدُ بْنُ الْحَارِثِ، حَدَّثَنَا شُعْبَةُ، عَنْ قَتَادَةَ، عَنْ أَبِي الْخَلِيلِ، عَنْ أَبِي سَعِيدٍ قَالَ: أَصَابُوا سَبْيًا يَوْمَ أَوْطَاسٍ، لَهُنَّ أَزْوَاجٌ. فَتَحَوَّفُوا فَأُنْزِلَتْ هَذِهِ الآيَةُ: «وَالْـمُحْصَنَاتُ مِنَ النِّسَاءِ إِلاَّ مَا مَلَكَتْ أَيْمَانُكُمْ».

Yaḥyā ibn Ḥabīb narrated to me: Khālid (meaning Ibn al-Ḥārith) narrated; Saʿīd narrated; from Qatādah; with the same chain of transmission: a similar text.

وَحَدَّثَنِي يَحْيَى بْنُ حَبِيبٍ، حَدَّثَنَا خَالِدٌ (يَعْنِي ابْنَ الْحَارِثِ)، حَدَّثَنَا سَعِيدٌ، عَنْ قَتَادَةَ، بِهَذَا الإِسْنَادِ: نَحْوَهُ.

Text Explanation

Hadith No. 3171 mentions the case of Muslims taking some women as captives of war. They were reluctant to consort with them because they were married to unbelievers. Needless to say, a married woman is lawful only to her husband. God then revealed the verse making a captive woman who is enslaved lawful because her marriage to her unbelieving husband is terminated by the fact that she has become a slave. She is lawful to her master after finishing her waiting period. The waiting period of such a woman is completed when she delivers her child if she is pregnant, or when she completes one menstruation if she is not pregnant. This is clear in authentic hadiths.

It should be noted that al-Shāfiʿī and other scholars consider that if the slave woman is an idolater or pagan, following no Divine religion, she does not become lawful to a Muslim by being in his possession unless she converts to Islam. As long as she retains her own religion, she remains unlawful. The captive women in the case referred to in these hadiths were Arab idolaters. Therefore, this hadith and similar ones are understood as implying that these women embraced Islam. This understanding is necessary, but God knows best.

Scholars differ with regard to the situation of a slave woman who is married to a Muslim but subsequently is sold: is her marriage terminated? Does she become lawful to her new master? Ibn ʿAbbās said that her marriage is terminated because of the general meaning of the verse that says: ‘And [forbidden to you are] all married women, other than those whom your right hands possess’. (4: 24) All other scholars said that her marriage is not so terminated. They consider that the said Qur’anic verse applies only to a woman who is enslaved by virtue of being a captive of war.

Al-Māzarī said:

This difference of views is based on whether a cause is included in a general statement; is the general statement then limited to its cause or not? Those who say that it is limited to its cause cannot use this verse to apply to a slave woman who is owned by purchase because the meaning of the verse is deemed to be ‘other than those whom your right hands possess through taking them captive in war’. Scholars who maintain that a general statement is not limited to its cause but taken in its generality say that the marriage of a sold slave woman is terminated once she is bought. However, it is confirmed in the case of Barīrah, a slave woman who was bought by ʿĀ’ishah, that the Prophet (peace be upon him) gave her the choice of staying with her husband or releasing her from her marriage. This proves that her marriage was not terminated when she was bought. However, this is a case of limiting a general Qur’anic statement on the basis of a singly-reported case. Scholars differ on whether this acceptable, but God knows best.

Transmission

Hadith No. 3172 includes in its chain of transmission: ‘Yazīd ibn Zurayʿ narrated; Saʿīd ibn Abi ʿArūbah narrated; from Qatādah; from Ṣāliḥ Abi al-Khalīl; from Abu ʿAlqamah al-Hāshimī; from Abu Saʿīd al-Khudrī’. However, the other hadith, No. 3174, includes: Shuʿbah narrated; from Qatādah; from Abu al-Khalīl; from Abu Saʿīd. The difference is that the second chain omits Abu ʿAlqamah al-Hāshimī. This is how it occurs in all manuscripts in our areas. It is related in this way by Abu ʿAlī al-Ghassānī, as narrated by al-Julūdī and Ibn Māhān. Abu Masʿūd al-Dimashqī mentions it in the same way and adds that in Ibn al-Ḥadhdhā’’s copy, Abu ʿAlqamah is added in between Abu al-Khalīl and Abu Saʿīd. Al-Ghassānī said: ‘I do not know which is correct’. *Qadi* ʿIyāḍ said that other scholars said that adding Abu ʿAlqamah is the correct way. My own view is that both including and omitting him may be right. This suggests that Abu al-Khalīl heard it in both ways and narrated it in one way on some occasion and in the other on a different occasion. We mentioned similar cases earlier.

i. Related by Abu Dāwūd, 2155; al-Tirmidhī, 1132 and 3016; al-Nasā’ī, 3333.
ii. In Dar al-Salam’s edition, this hadith is attached to the previous one.
iii. Related by al-Tirmidhī, 1132 and 3017.

CHAPTER 10

A CHILD BELONGS TO THE BED OWNER

[3175–36]. (Dar al-Salam 3435) Qutaybah ibn Saʿīd narrated:[i] Layth narrated [H]. Muhammad ibn Rumḥ narrated; al-Layth reported; from Ibn Shihāb; from ʿUrwah; from ʿĀ’ishah; that she said: **‘Saʿd ibn Abi Waqqāṣ and ʿAbd ibn Zamʿah were in dispute about a boy. Saʿd said: “Messenger of God, this is the child of my brother ʿUtbah ibn Abi Waqqāṣ. He asked me to look after him as he is his son. Look at his resemblance”. ʿAbd ibn Zamʿah said: “Messenger of God, this is my brother. He was born to my father by his slave girl”. God’s Messenger (peace be upon him) looked at the boy and he saw clear resemblance to ʿUtbah. He then said: “The boy belongs to you, ʿAbd. A child belongs to the bed and the adulterer bites the dust. Sawdah bint Zamʿah, do not let him see you”. She said: “He never saw Sawdah”.’**

Muhammad ibn Rumḥ did not mention [the Prophet’s] saying: **‘ʿAbd’.**

حَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ، حَدَّثَنَا لَيْثٌ، ح. وَحَدَّثَنَا مُحَمَّدُ بْنُ رُمْحٍ، أَخْبَرَنَا اللَّيْثُ، عَنِ ابْنِ شِهَابٍ، عَنْ عُرْوَةَ، عَنْ عَائِشَةَ أَنَّهَا قَالَتِ: اخْتَصَمَ سَعْدُ بْنُ أَبِي وَقَّاصٍ وَعَبْدُ بْنُ زَمْعَةَ فِي غُلاَمٍ. فَقَالَ سَعْدٌ: هَذَا يَا رَسُولَ اللهِ ابْنُ أَخِي عُتْبَةَ بْنِ أَبِي وَقَّاصٍ، عَهِدَ إِلَىَّ أَنَّهُ ابْنُهُ. انْظُرْ إِلَى شَبَهِهِ. وَقَالَ

عَبْدُ بْنُ زَمْعَةَ: هَذَا أَخِي يَا رَسُولَ اللهِ، وُلِدَ عَلَى فِرَاشِ أَبِي مِنْ وَلِيدَتِهِ. فَنَظَرَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ إِلَى شَبَهِهِ، فَرَأَى شَبَهًا بَيِّنًا بِعُتْبَةَ، فَقَالَ: «هُوَ لَكَ يَا عَبْدُ: الْوَلَدُ لِلْفِرَاشِ وَلِلْعَاهِرِ الْحَجَرُ. وَاحْتَجِبِي مِنْهُ يَا سَوْدَةُ بِنْتَ زَمْعَةَ». قَالَتْ: فَلَمْ يَرَ سَوْدَةَ قَطُّ. وَلَمْ يَذْكُرْ مُحَمَّدُ بْنُ رُمْحٍ قَوْلَهُ «يَا عَبْدُ».

[3176–000]. (Dar al-Salam 3436) Saʿīd ibn Manṣūr, Abu Bakr ibn Abi Shaybah and ʿAmr al-Nāqid narrated:[ii] they said: Sufyān ibn ʿUyaynah narrated [H]. Also, ʿAbd ibn Ḥumayd narrated; ʿAbd al-Razzāq reported; Maʿmar reported; both from al-Zuhrī; with the same chain of transmission: **a similar text. However, Maʿsmar and Ibn ʿUyaynah mentioned ‘a child belongs to the bed’, but did not mention: ‘and the adulterer bites the dust’.**

حَدَّثَنَا سَعِيدُ بْنُ مَنْصُورٍ، وَأَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، وَعَمْرٌو النَّاقِدُ قَالُوا: حَدَّثَنَا سُفْيَانُ بْنُ عُيَيْنَةَ ح. وَحَدَّثَنَا عَبْدُ بْنُ حُمَيْدٍ، أَخْبَرَنَا عَبْدُ الرَّزَّاقِ، أَخْبَرَنَا مَعْمَرٌ، كِلاَهُمَا عَنِ الزُّهْرِيِّ، بِهَذَا الإِسْنَادِ نَحْوَهُ . غَيْرَ أَنَّ مَعْمَرًا وَابْنَ عُيَيْنَةَ فِي حَدِيثِهِمَا «الْوَلَدُ لِلْفِرَاشِ». وَلَمْ يَذْكُرَا: «وَلِلْعَاهِرِ الْحَجَرُ».

[3177–37]. (Dar al-Salam 3437-3438) Muhammad ibn Rāfiʿ and ʿAbd ibn Ḥumayd narrated to me:[iii] Ibn Rāfiʿ said: ʿAbd al-Razzāq narrated; Maʿmar reported; from al-Zuhrī; from Ibn al-Musayyib and Abu Salamah; from Abu Hurayrah; that God’s Messenger said: **‘A child belongs to the bed and the adulterer bites the dust’.**

وَحَدَّثَنِي مُحَمَّدُ بْنُ رَافِعٍ، وَعَبْدُ بْنُ حُمَيْدٍ. قَالَ ابْنُ رَافِعٍ: حَدَّثَنَا عَبْدُ الرَّزَّاقِ، أَخْبَرَنَا مَعْمَرٌ، عَنِ الزُّهْرِيِّ، عَنِ ابْنِ الْـمُسَيَّبِ وَأَبِي سَلَمَةَ، عَنْ أَبِي هُرَيْرَةَ، أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: «الْوَلَدُ لِلْفِرَاشِ وَلِلْعَاهِرِ الْحَجَرُ».

Saʿīd ibn Manṣūr, Zuhayr ibn Ḥarb, ʿAbd al-Aʿlā ibn Ḥammād and ʿAmr al-Nāqid narrated:[iv] they said: Sufyān narrated; from al-Zuhrī. As for Ibn Manṣūr, he said: from Saʿīd; from Abu Hurayrah. ʿAbd al-Aʿlā said: from Abu Salamah or from Saʿīd from Abu Hurayrah. Zuhayr said: from Saʿīd or from Abu Salamah: either one or both, from Abu Hurayrah. ʿAmr said: Sufyān narrated once from al-Zuhrī, from Saʿīd and Abu Salamah, and on another occasion: from Saʿīd or Abu Salamah; and on a third occasion: from Saʿīd from Abu Hurayrah, from the Prophet (peace be upon him): **the same as Maʿmar's narration.**

وَحَدَّثَنَا سَعِيدُ بْنُ مَنْصُورٍ، وَزُهَيْرُ بْنُ حَرْبٍ، وَعَبْدُ الأَعْلَى بْنُ حَمَّادٍ، وَعَمْرٌو النَّاقِدُ، قَالُوا: حَدَّثَنَا سُفْيَانُ، عَنِ الزُّهْرِيِّ، أَمَّا ابْنُ مَنْصُورٍ فَقَالَ عَنْ سَعِيدٍ، عَنْ أَبِي هُرَيْرَةَ، وَأَمَّا عَبْدُ الأَعْلَى فَقَالَ عَنْ أَبِي سَلَمَةَ، أَوْ عَنْ سَعِيدٍ، عَنْ أَبِي هُرَيْرَةَ، وَقَالَ زُهَيْرٌ عَنْ سَعِيدٍ، أَوْ عَنْ أَبِي سَلَمَةَ، أَحَدُهُمَا أَوْ كِلاَهُمَا عَنْ أَبِي هُرَيْرَةَ، وَقَالَ عَمْرٌو حَدَّثَنَا سُفْيَانُ، مَرَّةً عَنِ الزُّهْرِيِّ، عَنْ سَعِيدٍ وَأَبِي سَلَمَةَ، وَمَرَّةً عَنْ سَعِيدٍ أَوْ أَبِي سَلَمَةَ، وَمَرَّةً عَنْ سَعِيدٍ، عَنْ أَبِي هُرَيْرَةَ عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ. بِمِثْلِ حَدِيثِ مَعْمَرٍ

Text Explanation

These hadiths mention that ‘the adulterer bites the dust’. The original Arabic expression is ‘the adulterer gets the stone’. What this expression means is that ‘he ends up with failure, or with nothing’. Some said that it means that he is punished by stoning. This has little validity because the punishment of stoning does not apply to every adulterer. Only a married adulterer may incur it. Moreover, if such punishment is enforced on him, it does not deprive him of the parenthood of the child. The import of this hadith is to say that the adulterer cannot claim parenthood of the child.

The Prophet says: ‘A child belongs to the bed’. This means that if a man has a wife or a slave woman, the woman is figuratively considered as a bed for him. If she begets a child after a feasible period of pregnancy, the child belongs to him and all rulings, including mutual inheritance, apply to father and child, whether there is resemblance in features between them or not. The minimum possible period of pregnancy is six months from the date of the man and the woman being together.

When does a woman qualify as a bed partner? If she is a wife, she qualifies once the marriage contract is made. There is unanimity on this point, but scholars add the condition that having sexual intercourse is possible for them. If it is not possible, as in the case of their living in different countries and neither of them leaves their places of residence, and then the woman begets a child after six months, the child is not attributed to her husband because it cannot be his. This is the view of Mālik, al-Shāfiʿī and all scholars, other than Abu Ḥanīfah. He does not apply this condition of possibility but considers only the time of the marriage contract. He even said: ‘Even if the man divorces his wife after the marriage contract is concluded, without any possibility of having had intercourse with his wife, then she begets a child after six months of the contract, the child belongs to him.’ This is weak and clearly invalid. There is no evidence in support of his argument that the applicability is general because this is a question of

the clear possibility of pregnancy after the contract. This applies in the case of a wife.

According to Mālik and al-Shāfiʿī, a slave woman becomes a ‘bed partner’ only if her master has intercourse with her. She does not become a bed partner merely by becoming his slave. Even if she remains in his possession for years and gives birth to several children, none of her children belongs to him if he has not had intercourse with her and does not admit having intercourse with her. If her master has intercourse with her, she becomes a ‘bed partner’ and then if she begets a child or children in a reasonable time of pregnancy, such children are his. Abu Ḥanīfah said that she does not become a ‘bed partner’ unless she gives birth to a child and her master claims the child. Any child she subsequently gives birth to is his own, unless he disclaims it. Abu Ḥanīfah adds: ‘If she becomes a bed partner when intercourse takes place, her ownership makes her like a wife.’

Our scholars say that the difference is that a man gets married primarily for sexual fulfilment. Therefore, the Shariah gives the marriage contract the status of sexual intercourse. A slave is taken for a variety of benefits other than sex. Hence, it is permissible for a man to own two sisters as slaves, or to have a mother and daughter in his possession, but such relatives cannot be combined by marriage contracts. Therefore, ownership of a slave woman does not make her a bed partner. If her master has sexual intercourse with her, she becomes a bed partner, like a free woman.

It should be noted that the hadith mentioning the case of ʿAbd ibn Zamʿah is understood to mean that it was confirmed that his father’s slave woman was his bed partner. Hence, the Prophet ruled that the child belonged to him. The mother was confirmed as a bed partner by clear evidence that he acknowledged this during his lifetime, or because the Prophet knew this.

This hadith provides evidence for al-Shāfiʿī and Mālik against Abu Ḥanīfah. Zamʿah did not have another child by this slave woman before the one the hadith mentions. This means having other children is not a

condition, and this is contrary to what Abu Ḥanīfah said. On the other hand, the hadith gives evidence to al-Shāfiʿī and those who agree with him against Mālik and scholars who share his view concerning the claim of parenthood. Al-Shāfiʿī says that an heir may claim parenthood by the person he is inheriting, provided that he himself is in possession of the inheritance, or that all heirs agree to the claim of parenthood by the deceased. Other conditions must apply, which are: that the person being claimed to belong to the deceased can reasonably be a child of his; and that he is not known to belong to anyone else; and that the child confirms the parenthood if the child is a sane adult. All these conditions were met by this child the Prophet attributed to Zamʿah when ʿAbd ibn Zamʿah claimed him to belong to his father. Our scholars interpret this in two ways: the first is that Sawdah bint Zamʿah, ʿAbd's sister, agreed with ʿAbd in claiming the child, so that all the heirs confirmed the claim. The other interpretation is that Zamʿah died an unbeliever, and Sawdah did not inherit him because she was a Muslim. He was inherited by his son ʿAbd ibn Zamʿah.

The Prophet told Sawdah, his wife, not to let the child see her. This was an order of recommendation and of taking precautions. On the surface, the child was her brother, as it was attributed to her father. However, when the Prophet saw the clear resemblance between the child and ʿUtbah ibn Abi Waqqās, he thought that ʿUtbah was the boy's biological father, and as such, the boy would be a stranger to her. Hence, the Prophet took the precaution of telling his wife not to let the boy see her.

Al-Māzarī said that some Ḥanafīs claimed that he ordered Sawdah to remain behind a screen so that the boy would not see her because one version of this hadith says: 'Do not let him see you, because he is not your brother'. The addition, 'he is not your brother', is unknown in this hadith. It is false and discounted, but God knows best.

Qadi ʿIyāḍ said:

> It was the practice in pre-Islamic days that a child would be claimed by and attributed to the adulterer. They also hired slave girls for sex.

> When a mother admitted that the child belonged to a particular person, they would attribute it to that person. Islam put an end to all this and attributed the child to the legitimate bed. Therefore, when ʿAbd ibn Zamʿah and Saʿd ibn Abi Waqqāṣ disputed the child, Saʿd claimed what his brother ʿUtbah asked him to do following the pre-Islamic practice. Saʿd was unaware that Islam did not approve of it. The boy was not attributed to any father before Islam, either because no one claimed him, or because the mother did not acknowledge his belonging to ʿUtbah. ʿAbd ibn Zamʿah argued that he was born on his father's bed and, therefore, the Prophet ruled in ʿAbd's favour.

The hadith mentions that the Prophet 'saw clear resemblance to ʿUtbah', but he then ruled that the child belonged to the bed. This makes clear that resemblance and judgement based on physical features are applicable when there is no stronger evidence. The resemblance was not taken as evidence in the case of the swearing, although the resemblance was clear in certain features.

Some Ḥanafī scholars and others sharing their view take this hadith as evidence that adulterous intercourse blocks marriages in the same way as legitimate intercourse through marriage. This is agreed by Abu Ḥanīfah, al-Awzāʿī, al-Thawrī and Ahmad. On the other hand, Mālik, al-Shāfiʿī, Abu Thawr and others said that adulterous intercourse has no effect. The adulterer can marry the mother or daughter of the woman with whom he commits adultery. Al-Shāfiʿī goes further making it lawful for the adulterer to marry his own biological daughter through adultery. They argue that Sawdah was told to be screened from the boy. The argument is invalid. Indeed, it is strange to cite. Assuming that the boy in this case was born through adultery and, as such, a stranger to Sawdah, she could not let him see her, whether he was attributed to the adulterer, i.e., his biological father, or not. As such it is not related to the matter in question.

This hadith makes it clear that a ruling by a judge does not change the essential status. This means if the judge rules on the basis of the testimony

of false witnesses, or some other evidence, what is given by the ruling does not become lawful to the one who is given it. The point here is that the Prophet ruled the boy to belong to ʿAbd ibn Zamʿah, Sawdah's brother. Yet, because of the resemblance, he might have belonged to ʿUtbah. Had the ruling affected the status, the Prophet would not have ordered Sawdah not to let the boy see her, but God knows best.

i. Related by al-Bukhari, 2218, 6765 and in a shorter version, 6817; al-Nasā'ī, 3484.
ii. Related by al-Bukhari, 2421; Abu Dāwūd, 2273; al-Nasā'ī, 3487; Ibn Mājah, 2004.
iii. Related by al-Nasā'ī, 3483.
iv. Related by al-Tirmidhī, 1157; al-Nasā'ī, 3482; Ibn Mājah, 2006.

CHAPTER 11

ACCEPTANCE OF A VERDICT BASED ON FEATURE TRACING

[3178–38]. (Dar al-Salam 3439) Yaḥyā ibn Yaḥyā and Muhammad ibn Rumḥ narrated:[i] both said: al-Layth reported [H]. Also, Qutaybah ibn Saʿīd narrated: Layth narrated; from Ibn Shihāb; from ʿUrwah; from ʿĀ'ishah. She said: **'God's Messenger (peace be upon him) once came in feeling delighted, with his face beaming. He said: Have you seen Mujazziz? He saw Zayd ibn Ḥārithah and Usāmah ibn Zayd a short while ago and said: "These feet belong to each other".'**

حَدَّثَنَا يَحْيَى بْنُ يَحْيَى، وَمُحَمَّدُ بْنُ رُمْحٍ، قَالا: أَخْبَرَنَا اللَّيْثُ، ح. وَحَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ، حَدَّثَنَا لَيْثٌ، عَنِ ابْنِ شِهَابٍ، عَنْ عُرْوَةَ، عَنْ عَائِشَةَ أَنَّهَا قَالَتْ: إِنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ دَخَلَ عَلَيَّ مَسْرُورًا، تَبْرُقُ أَسَارِيرُ وَجْهِهِ فَقَالَ: أَلَمْ تَرَيْ أَنَّ مُجَزِّزًا نَظَرَ آنِفًا إِلَى زَيْدِ بْنِ حَارِثَةَ وَأُسَامَةَ بْنِ زَيْدٍ، فَقَالَ إِنَّ بَعْضَ هَذِهِ الأَقْدَامِ لَمِنْ بَعْضٍ.

[3179–39]. (Dar al-Salam 3440) ʿAmr al-Nāqid, Zuhayr ibn Ḥarb and Abu Bakr ibn Abi Shaybah narrated to me (ʿAmr's text):[ii] they said: Sufyān narrated; from al-Zuhrī; from ʿUrwah; from ʿĀ'ishah. She said: **'One day, God's Messenger (peace be upon him) came in feeling delighted. He said: ʿĀ'ishah, have you seen Mujazziz**

al-Mudlijī when he came to see me. He saw Usāmah and Zayd having covered their heads with a cover of velvet, while their feet were exposed. He said: “These feet belong to each other”.’

وَحَدَّثَنِي عَمْرٌو النَّاقِدُ، وَزُهَيْرُ بْنُ حَرْبٍ، وَأَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ (وَاللَّفْظُ لِعَمْرٍو) قَالُوا: حَدَّثَنَا سُفْيَانُ، عَنِ الزُّهْرِيِّ، عَنْ عُرْوَةَ، عَنْ عَائِشَةَ قَالَتْ: دَخَلَ عَلَيَّ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ ذَاتَ يَوْمٍ مَسْرُورًا، فَقَالَ: «يَا عَائِشَةُ، أَلَمْ تَرَيْ أَنَّ مُجَزِّزًا الْـمُدْلِجِيَّ دَخَلَ عَلَيَّ، فَرَأَى أُسَامَةَ وَزَيْدًا وَعَلَيْهِمَا قَطِيفَةٌ، قَدْ غَطَّيَا رُءُوسَهُمَا وَبَدَتْ أَقْدَامُهُمَا، فَقَالَ: إِنَّ هَذِهِ الأَقْدَامَ بَعْضُهَا مِنْ بَعْضٍ».

[3180–40]. (Dar al-Salam 3441-3442) Manṣūr ibn Abi Muzāḥim narrated:[iii] Ibrāhīm ibn Saʿd narrated; from al-Zuhrī; from ʿUrwah; from ʿĀ’ishah. She said: **‘One who traces [similarities] entered when God’s Messenger (peace be upon him) was present. Usāmah ibn Zayd and Zayd ibn Ḥārithah were lying down. He said: “These feet belong to each other”. The Prophet was pleased and complimented what was said. He told ʿĀ’ishah about it’.**

وَحَدَّثَنَاهُ مَنْصُورُ بْنُ أَبِي مُزَاحِمٍ، حَدَّثَنَا إِبْرَاهِيمُ بْنُ سَعْدٍ، عَنِ الزُّهْرِيِّ، عَنْ عُرْوَةَ، عَنْ عَائِشَةَ قَالَتْ: دَخَلَ قَائِفٌ وَرَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ شَاهِدٌ، وَأُسَامَةُ بْنُ زَيْدٍ وَزَيْدُ بْنُ حَارِثَةَ مُضْطَجِعَانِ، فَقَالَ: إِنَّ هَذِهِ الأَقْدَامَ بَعْضُهَا مِنْ بَعْضٍ . فَسُرَّ بِذَلِكَ النَّبِيُّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ وَأَعْجَبَهُ، وَأَخْبَرَ بِهِ عَائِشَةَ.

Ḥarmalah ibn Yaḥyā narrated: Ibn Wahb reported; Yūnus reported to me [H]. Also, ʿAbd ibn Ḥumayd narrated; ʿAbd al-Razzāq reported; Maʿmar and Ibn Jurayj reported; all from al-Zuhrī; with the same chain of transmission: **the same meaning as their narration, but Yūnus adds in his narration: ‘Mujazziz was an expert tracer’.**

وَحَدَّثَنِي حَرْمَلَةُ بْنُ يَحْيَى، أَخْبَرَنَا ابْنُ وَهْبٍ، أَخْبَرَنِي يُونُسُ، ح. وَحَدَّثَنَا عَبْدُ بْنُ حُمَيْدٍ، أَخْبَرَنَا عَبْدُ الرَّزَّاقِ، أَخْبَرَنَا مَعْمَرٌ، وَابْنُ جُرَيْجٍ، كُلُّهُمْ عَنِ الزُّهْرِيِّ، بِهَذَا الإِسْنَادِ: بِمَعْنَى حَدِيثِهِمْ . وَزَادَ فِي حَدِيثِ يُونُسَ: وَكَانَ مُجَزِّزٌ قَائِفًا.

Text Explanation

The hadith in this chapter, in its several versions, mentions the Prophet's delight with the remark of Mujazziz as he recognized the close relationship between Zayd ibn Ḥārithah and his son Usāmah from looking at their feet. Mujazziz belonged to the tribe of Mudlij, and this tribe was famous in Arabia for their skill in tracing similarities. All the Arabs recognized their skill, which also belonged to the Asad tribe. The Prophet was delighted with what Mujazziz said and ʿĀ'ishah describes him as 'his face was beaming'.

We need to give some background in order to explain the Prophet's delight before we continue with Imam al-Nawawī's commentary. Zayd was an adolescent slave when Khadījah gave him to the Prophet as a gift at the time of their marriage. The Prophet loved him and treated him as a son. He later married him to Umm Ayman, his nurse who looked after him when his mother died. Zayd was white in colour, while Umm Ayman was black, as she was Abyssinian. Usāmah, their son took his mother's colour and was black. Therefore, some people expressed doubt about Usāmah's parenthood, and said that he could not belong to his father, Zayd. The Prophet was hurt by such rumours because he loved Zayd and his son.

Imam al-Māzarī said: 'In pre-Islamic days people expressed doubt about Zayd's parenthood of Usāmah, because Usāmah was dark black in colour while Zayd was white. This was stated by Abu Dāwūd reporting from Ahmad ibn Ṣāliḥ. When this tracer judged that Usāmah belonged to his father, despite the difference in their colour and the Arabs acknowledged the verdict of any *qā'if*, i.e., one skilled in tracing similarities, the Prophet showed his delight. This was sufficient to stop them questioning parenthood on the basis of different features.'

Qadi ʿIyāḍ said that scholars other than Ahmad ibn Ṣāliḥ said that Zayd was white with a tinge of pink, and Usāmah's mother was Umm Ayman. She was a black Abyssinian woman named Barakah. *Qadi* ʿIyāḍ said: 'She

was Barakah bint Miḥṣan ibn Thaʿlabah ibn ʿAmr ibn Ḥuṣayn ibn Mālik ibn Salamah ibn ʿAmr ibn al-Nuʿmān, but God knows best.’

Scholars differ as to the implementation of the verdict of a *qā’if*, with Abu Ḥanīfah, his disciples, al-Thawrī and Isḥāq rejecting it. Al-Shāfiʿī and the majority of scholars confirm it. The best-known view of Mālik is that he confirmed it with regard to female slaves, but did not implement it in the case of free women. Yet a report from him suggests that he accepted it in both. The basis of al-Shāfiʿī’s view is this hadith mentioning Mujazziz because the Prophet was delighted to have in his community an expert who could distinguish parenthood when it was disputed. Had the tracing of similarities provided no evidence, the Prophet would not have been delighted with Mujazziz’s comment. However, scholars who uphold the verdict of the tracing expert stipulate a condition that he must be known to be a person of unblemished integrity.

Scholars also differ on whether one *qā’if* is sufficient. According to our Shāfiʿī scholars, the more correct view is that only one is necessary. This view is shared by Ibn al-Qāsim, a Mālikī scholar. Mālik, however, said that two are necessary, and some of our Shāfiʿī scholars agree. This hadith indicates that one is sufficient. Our scholars also differ on whether this expertise belonged to the Mudlij tribe in particular, and the more correct view is that it did not. Scholars also agree that when a *qā’if* is needed, he must be a well-proven expert.

Scholars who implement the verdict of a *qā’if* agree that it should be resorted to in problematic cases, where a woman has had intercourse with two men and her pregnancy could be by either. They give the example of a slave woman who is sold, and both seller and buyer have sexual intercourse with her, without the buyer first making sure that she is not pregnant. If she gives birth to a child after six months or more of the second man’s intercourse and less than four years of the first[iv], then a *qā’if* may be employed to trace similarity. If he attributes the child to one of the two men, the child is ruled to belong to that parent. If the *qā’if* cannot give a clear

verdict or says that there is not sufficient similarity, the child is left until he is an adult when he may choose either one. If the *qā'if* says that the child belongs to both, the view of ʿUmar ibn al-Khaṭṭāb, Mālik and al-Shāfiʿī is to leave the child until he is an adult when he chooses the one he favours. Abu Thawr and Suḥnūn said that the child belongs to both. Al-Mājishūn and Muhammad ibn Maslamah, both Mālikī scholars, said the child is attributed to whoever he resembles more. Ibn Maslamah adds: 'unless the first man knows it belongs to him'. Scholars who reject using a *qā'if* also differ with regard to a case of disputed parenthood. Abu Ḥanīfah said it is attributed to both men. If two women claim the child, it is attributed to both. Abu Yūsuf and Muhammad of the Ḥanafī school said it is attributed to the two men, but to one woman only. Isḥāq said that the case is settled by drawing lots.

Note: We may add here that all this no longer applies as we now have the DNA test which determines parenthood very accurately.

i. Related by al-Bukhari, 6770; Abu Dāwūd, 2268; al-Tirmidhī, 2129; al-Nasā'ī, 3493.
ii. Related by al-Bukhari, 6771; Abu Dāwūd, 2267; al-Nasā'ī, 3494; Ibn Mājah, 2349.
iii. Related by al-Bukhari, 3731.
iv. Scholars of old erroneously considered that the maximum period of pregnancy was four years. Nowadays, Muslim scholars suggest that one year is the maximum.

CHAPTER 12

A MAN’S STAY WITH HIS NEW WIFE AFTER THE WEDDING

[3181–41]. (Dar al-Salam 3443) Abu Bakr ibn Abi Shaybah, Muhammad ibn Ḥātim and Yaʿqūb ibn Ibrāhīm narrated (Abu Bakr’s text): they said: Yaḥyā ibn Saʿīd narrated; from Sufyān; from Muhammad ibn Abi Bakr; from ʿAbd al-Malik ibn Abi Bakr ibn ʿAbd al-Raḥmān ibn al-Ḥārith ibn Hishām; from his father; from Umm Salamah; that **‘When God’s Messenger (peace be upon him) married Umm Salamah, he stayed with her for three nights. He then said to her: “There is no question of disregard to you by me. If you wish I will continue with you up to seven nights. If I stay seven with you, I stay seven nights with my other wives”.’**

حَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، وَمُحَمَّدُ بْنُ حَاتِمٍ، وَيَعْقُوبُ بْنُ إِبْرَاهِيمَ (وَاللَّفْظُ لأَبِي بَكْرٍ) قَالُوا: حَدَّثَنَا يَحْيَى بْنُ سَعِيدٍ، عَنْ سُفْيَانَ، عَنْ مُحَمَّدِ بْنِ أَبِي بَكْرٍ، عَنْ عَبْدِ الْـمَلِكِ بْنِ أَبِي بَكْرِ بْنِ عَبْدِ الرَّحْمَنِ بْنِ الْحَارِثِ بْنِ هِشَامٍ، عَنْ أَبِيهِ، عَنْ أُمِّ سَلَمَةَ، أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ لَـمَّا تَزَوَّجَ أُمَّ سَلَمَةَ أَقَامَ عِنْدَهَا ثَلاَثًا، وَقَالَ: «إِنَّهُ لَيْسَ بِكِ عَلَى أَهْلِكِ هَوَانٌ. إِنْ شِئْتِ سَبَّعْتُ لَكِ، وَإِنْ سَبَّعْتُ لَكِ سَبَّعْتُ لِنِسَائِي».

[3182–42]. (Dar al-Salam 3444) Yaḥyā ibn Yaḥyā narrated: he said: I read out to Mālik; from ʿAbdullāh ibn Abi Bakr; from ʿAbd al-Malik ibn Abi Bakr ibn ʿAbd al-Raḥmān; that **‘When God’s Messenger (peace be upon him) married Umm Salamah and she moved into his home, he said to her: “There is no question of disregard to you by me. If you wish I will continue with you up to seven nights. But if you prefer, I will stay three nights and resume my round”. She said: “Stay three”.’**

حَدَّثَنَا يَحْيَى بْنُ يَحْيَى، قَالَ قَرَأْتُ عَلَى مَالِكٍ، عَنْ عَبْدِ اللهِ بْنِ أَبِي بَكْرٍ، عَنْ عَبْدِ الْـمَلِكِ بْنِ أَبِي بَكْرِ بْنِ عَبْدِ الرَّحْمَنِ، أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ حِينَ تَزَوَّجَ أَمَّ سَلَمَةَ، وَأَصْبَحَتْ عِنْدَهُ، قَالَ لَهَا: «لَيْسَ بِكِ عَلَى أَهْلِكِ هَوَانٌ. إِنْ شِئْتِ سَبَّعْتُ عِنْدَكِ، وَإِنْ شِئْتِ ثَلَّثْتُ، ثُمَّ دُرْتُ». قَالَتْ: ثَلِّثْ.

[3183–000]. (Dar al-Salam 3445-3446) ʿAbdullāh ibn Maslamah al-Qaʿnabī narrated: Sulaymān (meaning Ibn Bilāl) narrated; from ʿAbd al-Raḥmān ibn Ḥumayd; from ʿAbd al-Malik ibn Abi Bakr; from Abu Bakr ibn ʿAbd al-Raḥmān; that **‘When God’s Messenger (peace be upon him) married Umm Salamah and he was with her, he then wanted to go, but she held his robe. God’s Messenger said to her: “If you wish, I will stay on with you and will make an account of it. A virgin has seven [nights] and a previously married woman has three”.’**

وَحَدَّثَنَا عَبْدُ اللهِ بْنُ مَسْلَمَةَ الْقَعْنَبِيُّ، حَدَّثَنَا سُلَيْمَانُ (يَعْنِي ابْنَ بِلاَلٍ)، عَنْ عَبْدِ الرَّحْمَنِ بْنِ حُمَيْدٍ، عَنْ عَبْدِ الْـمَلِكِ بْنِ أَبِي بَكْرٍ، عَنْ أَبِي بَكْرِ

بْنِ عَبْدِ الرَّحْمَنِ، أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ حِينَ تَزَوَّجَ أَمَّ سَلَمَةَ، فَدَخَلَ عَلَيْهَا، فَأَرَادَ أَنْ يَخْرُجَ، أَخَذَتْ بِثَوْبِهِ. فَقَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «إِنْ شِئْتِ زِدْتُكِ وَحَاسَبْتُكِ بِهِ: لِلْبِكْرِ سَبْعٌ، وَلِلثَّيِّبِ ثَلاَثٌ».

Yaḥyā ibn Yaḥyā narrated: Abu Ḍamrah reported; from ʿAbd al-Raḥmān ibn Ḥumayd; with the same chain of transmission: **the same text.**

وَحَدَّثَنَا يَحْيَى بْنُ يَحْيَى، أَخْبَرَنَا أَبُو ضَمْرَةَ، عَنْ عَبْدِ الرَّحْمَنِ بْنِ حُمَيْدٍ، بِهَذَا الإِسْنَادِ: مِثْلَهُ.

[3184–43]. (Dar al-Salam 3447) Abu Kurayb Muhammad ibn al-ʿAlā’ narrated to me: Ḥafṣ (meaning Ibn Ghiyāth) narrated; from ʿAbd al-Wāḥid ibn Ayman; from Abu Bakr ibn ʿAbd al-Raḥmān ibn al-Ḥarith ibn Hishām; from Umm Salamah; mentioning that God’s Messenger (peace be upon him) married her. He mentioned certain things including the following: He said: **‘If you wish, I will stay with you seven nights and stay with my [other] wives seven nights. If I stay seven nights with you, I will stay seven with each of my wives’.**

حَدَّثَنِي أَبُو كُرَيْبٍ مُحَمَّدُ بْنُ الْعَلاَءِ، حَدَّثَنَا حَفْصٌ (يَعْنِي ابْنَ غِيَاثٍ)، عَنْ عَبْدِ الْوَاحِدِ بْنِ أَيْمَنَ، عَنْ أَبِي بَكْرِ بْنِ عَبْدِ الرَّحْمَنِ بْنِ الْحَارِثِ بْنِ هِشَامٍ، عَنْ أُمِّ سَلَمَةَ، ذَكَرَ أَنَّ رسولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ

تَزَوَّجَهَا. وَذَكَرَ أَشْيَاءَ، هَذَا فِيهِ. قَالَ: «إِنْ شِئْتِ أَنْ أَسَبِّعَ لَكِ وَأَسَبِّعَ لِنِسَائِي. وَإِنْ سَبَّعْتُ لَكِ، سَبَّعْتُ لِنِسَائِي».

[3185–44]. (Dar al-Salam 3448) Yaḥyā ibn Yaḥyā narrated: Hushaym reported; from Khālid; from Abu Qulābah; from Anas ibn Mālik. He said: **‘If a man marries a virgin and he has a previously married wife, he stays with her [i.e., the virgin] seven nights. And if he marries a previously married woman and his first wife was a virgin, he stays with her [i.e., his new wife] for three nights’.**

Khālid said: **‘If I say that he attributed it to the Prophet, I would be telling the truth, but he said: “Such is the sunnah”.’**

حَدَّثَنَا يَحْيَى بْنُ يَحْيَى، أَخْبَرَنَا هُشَيْمٌ، عَنْ خَالِدٍ، عَنْ أَبِي قِلاَبَةَ، عَنْ أَنَسِ بْنِ مَالِكٍ قَالَ: إِذَا تَزَوَّجَ الْبِكْرَ عَلَى الثَّيِّبِ أَقَامَ عِنْدَهَا سَبْعًا، وَإِذَا تَزَوَّجَ الثَّيِّبَ عَلَى الْبِكْرِ أَقَامَ عِنْدَهَا ثَلاَثًا . قَالَ خَالِدٌ: وَلَوْ قُلْتُ إِنَّهُ رَفَعَهُ لَصَدَقْتُ، وَلَكِنَّهُ قَالَ: السُّنَّةُ كَذَلِكَ.

[3186–45]. (Dar al-Salam 3449) Muhammad ibn Rāfiʿ narrated to me: ʿAbd al-Razzāq narrated; Sufyān reported; from Ayyūb and Khālid al-Ḥadhdhā’; from Abu Qilābah; from Anas. He said: **‘It is part of the Sunnah that a husband stays with his virgin wife for seven nights’.**

Khālid said: **‘Had I wished, I would have said that he attributed it to the Prophet (peace be upon him)’.**

وَحَدَّثَنِي مُحَمَّدُ بْنُ رَافِعٍ، حَدَّثَنَا عَبْدُ الرَّزَّاقِ، أَخْبَرَنَا سُفْيَانُ، عَنْ أَيُّوبَ وَخَالِدٍ الْحَذَّاءِ، عَنْ أَبِي قِلاَبَةَ، عَنْ أَنَسٍ قَالَ: مِنَ السُّنَّةِ أَنْ يُقِيمَ عِنْدَ الْبِكْرِ سَبْعًا . قَالَ خَالِدٌ: وَلَوْ شِئْتُ قُلْتُ رَفَعَهُ إِلَى النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ.

Text Explanation

Hadith No. 3181 mentions what the Prophet said to his new wife, Umm Salamah, after he had stayed with her for three nights after their wedding: ‘There is no question of disregard to you by me’. This means that she would suffer no disregard and her right would be given to her in full. He then explains to her what her right as a newlywed wife is. She had the choice that he stay with her three nights and then resume his normal round with his other wives. [At the time, the Prophet was married to Sawdah, ʿĀ’ishah and Ḥafṣah.] The alternative was to stay with her for seven consecutive nights. However, in this case, he explains: ‘If I stay seven with you, I will stay seven nights with my other wives’.

As is clear in hadith No. 3182 Umm Salamah chose that the Prophet stays with her for three nights and then resume his round. This alternative has the advantage of not giving the other wives any compensation because the three nights are allowed for the new bride. The other alternative gives the new wife a longer period to get used to her husband and her new life. Umm Salamah made her choice, preferring that the Prophet come back to her sooner, as he would spend one night with each of his other three wives and then it would be her turn. Had she chosen the seven nights, he would have had to stay seven nights with each of his other wives. His absence would thus be prolonged.

This hadith shows the desirability of gentle and kind conversation with one’s wife, family and other people, as well as explaining the rights of the addressee. The hadith also confirms the importance of fairness to one’s wives. It also explains that a new bride has a special right to be given to her ahead of the rights of other wives. If she is a virgin, she has the privilege of having her husband for herself for seven nights and days, without any compensation due to other wives. If she is a previously married woman, she has the choice of seven nights that will be similarly given to other wives, or three without any compensation due to others.

This is the view of al-Shāfiʿī and others, as stated in confirmed and authentic hadiths. Others who share this view include Mālik, Ahmad, Isḥāq, Abu Thawr, Ibn Jarīr and the majority of scholars. Abu Ḥanīfah, al-Ḥakam and Ḥammād said that compensation is due for all, in cases of virgin and previously married women, citing in support the clear statements requiring fairness between one's wives. Al-Shāfiʿī argues that these hadiths add special provisions that limit that generality.

Scholars hold further different views on who has this right: the husband or the new wife? The view of our school and the majority of scholars is that it is the right of the new wife. Some Mālikī scholars say that it is his right against his other wives. Scholars also differ concerning its applicability to a husband who has other wives than his new bride. Ibn ʿAbd al-Barr said: 'The majority of scholars say that this is a right of the woman because of her wedding, whether he has another wife or not'. They cite in support the general meaning of the hadith that says: 'If a man marries a virgin, he stays with her for seven nights, and if he marries a previously married woman, he stays with her three nights'. The hadith does not specify an already married person. Some scholars said that the hadith refers to a man who has one wife or more other than the new bride. The one who has no other wife stays with his wife for life, with both enjoying the uninterrupted company of the other. It is a different case when the man has other wives. These special nights are given to the new wife so that she gets used to her new life, settles in, sheds her shyness, and the new couple enjoy each other's company without the interruption of going to the other wives.

Qadi ʿIyāḍ said that this last view is the preferable one. Al-Baghawī, a leading Shāfiʿī scholar, states it categorically in his fatwas, adding: 'This right is confirmed for a new wife if the man has another wife with whom he stays. If he has no other wife, or if he has one but he does not stay any nights with her, the new wife does not have this wedding right, in the same way as he does not have to stay nights with his wives.' The first view is the

stronger one and the preferred one because the hadith is general in its significance.

Another point of difference among scholars regarding the husband's stay with his virgin or previously married wife, if he has another wife, is whether it is a duty or sunnah. Al-Shāfiʿī, his disciples and other scholars say that it is a duty. Ibn al-Qāsim reports the same from Mālik. However, Ibn ʿAbd al-Ḥakam says that Mālik's view is that it is a sunnah.

In hadith No. 3186, Anas says: 'It is part of the sunnah that a husband stays with his virgin wife for seven nights'. Putting it in this way means that this is attributed to the Prophet. If a Companion of the Prophet says: 'the Sunnah is such-and-such', or 'it is part of the Sunnah', his expression has the same status as 'God's Messenger said this or that'. This is the view of our school, scholars of Hadith and the great majority of earlier and later scholars. Some say that it is *mawqūf*, which means 'stated by a Companion of the Prophet', but this is incorrect.

In hadith No. 3185: 'Khālid said: "If I say that he attributed it to the Prophet, I would be telling the truth".' In the other narration: 'If I wished, I would say he attributed it to the Prophet'. This expression, i.e., 'such is the Sunnah', is a clear statement that what is being said is attributed to the Prophet. I could say it on the basis of narration by meaning. Had I done so, I would be stating what is true, but God knows best.

Transmission

The chain of transmission of the first hadith in this chapter, No. 3181 includes: ‘from Sufyān; from Muhammad ibn Abi Bakr; from ʿAbd al-Malik ibn Abi Bakr ibn ʿAbd al-Raḥmān ibn al-Ḥārith ibn Hishām; from his father; from Umm Salamah; that ‘When God’s Messenger (peace be upon him) married Umm Salamah, he stayed with her for three nights’. And the next hadith, No. 3182 which is Mālik’s version: ‘from ʿAbdullāh ibn Abi Bakr; from ʿAbd al-Malik ibn Abi Bakr ibn ʿAbd al-Raḥmān; that “When God’s Messenger (peace be upon him) married Umm Salamah…”.’ The hadith is then narrated by Sulaymān ibn Bilāl in the same way as Mālik’s version, i.e., *mursal* or an incomplete chain of transmission. Yet Muslim adds another version narrated by Ḥafṣ ibn Ghiyāth with a complete chain of transmission, similar to Sufyān’s narration.

Al-Dāraquṭnī said: ‘Both ʿAbdullāh ibn Abi Bakr and ʿAbd al-Raḥmān ibn Ḥumayd narrated the hadith as *mursal*, as Muslim entered it’. This question-mark raised by al-Dāraquṭnī against Muslim is invalid because Muslim has shown the difference between narrators, with some keeping its chain of transmission incomplete while others make it complete. His view, shared by scholars of Fiqh, methodology and Hadith masters, is that if a hadith is narrated in two ways, with a complete chain of transmission and an incomplete one, it is considered to have the complete chain of transmission. This is due to the fact that its continuity is an addition by a reliable narrator, and such an addition is accepted by the great majority of scholars. Hence, al-Dāraquṭnī’s questioning is incorrect, but God knows best.

CHAPTER 13

FAIRNESS TO ONE'S WIVES: ONE NIGHT AND DAY FOR EACH

[3187–46]. (Dar al-Salam 3450) Abu Bakr ibn Abi Shaybah narrated: Shabābah ibn Sawwār narrated; Sulaymān ibn al-Mughīrah narrated; from Thābit; from Anas. He said: **'The Prophet (peace be upon him) had nine wives. When he divided his nights between them, he would return to the first one on the ninth night. They would meet every evening in the home of the one where the Prophet would stay that night. Once he was in ʿĀ'ishah's home. Zaynab came in and he stretched his hand to her. She [meaning ʿĀ'ishah] said: "This is Zaynab". The Prophet withdrew his hand. They exchanged harsh words and raised their voices. Abu Bakr passed by when this was taking place and he heard their voices. He said: "Come, Messenger of God, to the prayer and put dust in their mouths". The Prophet went out. ʿĀ'ishah said: "Now the Prophet will finish his prayer, and Abu Bakr will come in and do this and that to me". When the Prophet finished his prayer, Abu Bakr came over to her and rebuked her strongly. He said: "How can you do this?"'**

حَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا شَبَابَةُ بْنُ سَوَّارٍ، حَدَّثَنَا سُلَيْمَانُ بْنُ الْـمُغِيرَةِ، عَنْ ثَابِتٍ، عَنْ أَنَسٍ قَالَ: كَانَ لِلنَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ تِسْعُ نِسْوَةٍ، فَكَانَ إِذَا قَسَمَ بَيْنَهُنَّ لاَ يَنْتَهِي إِلَى الْـمَرْأَةِ الأُولَى إِلاَّ فِي تِسْعٍ. فَكُنَّ يَجْتَمِعْنَ كُلَّ لَيْلَةٍ فِي بَيْتِ الَّتِي يَأْتِيهَا، فَكَانَ فِي بَيْتِ عَائِشَةَ، فَجَاءَتْ زَيْنَبُ فَمَدَّ يَدَهُ إِلَيْهَا، فَقَالَتْ: هَذِهِ زَيْنَبُ. فَكَفَّ النَّبِيُّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ يَدَهُ . فَتَقَاوَلَتَا حَتَّى اسْتَخَبَتَا. وَأُقِيمَتِ الصَّلاَةُ فَمَرَّ أَبُو بَكْرٍ عَلَى ذَلِكَ، فَسَمِعَ أَصْوَاتَهُمَا فَقَالَ: اخْرُجْ يَا رَسُولَ اللهِ إِلَى الصَّلاَةِ، وَاحْثُ فِي أَفْوَاهِهِنَّ التُّرَابَ . فَخَرَجَ النَّبِيُّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، فَقَالَتْ عَائِشَةُ: الآنَ يَقْضِي النَّبِيُّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ صَلاَتَهُ، فَيَجِيءُ أَبُو بَكْرٍ فَيَفْعَلُ بِي وَيَفْعَلُ . فَلَـمَّا قَضَى النَّبِيُّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ صَلاَتَهُ، أَتَاهَا أَبُو بَكْرٍ فَقَالَ لَهَا قَوْلاً شَدِيدًا، وَقَالَ: أَتَصْنَعِينَ هَذَا؟

Text Explanation

The view of our school is that a husband need not divide his nights between his wives. He may, if he so wishes, stay away from all of them, but it is reprehensible to abandon them as this may lead to some harm or to their falling to temptation. If a husband wants to divide his nights between his wives, he cannot start with any of them except by drawing lots. It is open to him to make a division on the basis of one, two or three nights each. It is not permissible to make the division for less than one night or more than three nights each unless the husband obtains their agreement. This is the correct view of our school. There are some other opinions on these points, but they are weak.

Scholars agree that a husband may go to all his wives and have sex with them, one after the other, if they agree, but he cannot do this without their agreement.

If a husband makes such a division between his wives, each one has the day that follows her night. He should stick to the division, giving their due nights to the one who is ill, or in her menstrual period or having postnatal discharge. That he cannot have sexual intercourse with one in this state is no reason for denying her right because she still prefers his company, and they may have some pleasure together. Our scholars say that a husband is not required to have sexual intercourse with his wives, or to maintain fairness in this respect. He may stay his nights with them without having intercourse with any of them, or with one but not the other. However, it is recommended that he does not abandon any of them. Fairness in such matters is also recommended, but God knows best.

The hadith mentions that the Prophet had nine wives. These were the ones who survived him. They are: ʿĀ'ishah, Ḥafṣah, Sawdah, Zaynab, Umm Salamah, Umm Ḥabībah, Maymūnah, Juwayriyyah and Ṣafiyyah (may God be pleased with them all). The hadith mentions that each one would have her night with the Prophet after he completed the round of the

nine. This suggests that it is desirable when dividing one's nights to make it one night each, so as not to risk any non-fulfilment of their rights.

The hadith mentions that the Prophet's wives met every day in the home of the one where the Prophet was staying that night. This shows that it is desirable that a husband goes to each one of his wives in her home, rather than asking them to come to him in his home. However, he is free to invite each one, on her night, to come to him, but this is the lesser option. If he invites one of his wives to come to him in the home of another wife, she is not obliged to comply. Unlike refusing to go to him in his home, her refusal to see him in his other wife's home does not constitute disobedience. The meeting of the Prophet's wives in the home of each one of them was by their consent. The hadith shows that a husband may not go at night to the home of any of his wives other than that of the one whose turn it is. In fact, to go to anyone else at night is forbidden according to our school, except for some urgent necessity.

The hadith mentions that the Prophet stretched his hand to one of his wives and ʿĀ'ishah said to him: 'This is Zaynab'. Some scholars said that this was not deliberate, but that the Prophet thought that she was ʿĀ'ishah, whose turn it was that night. The meeting was at night and there were no lights inside homes. It is also said that such gestures were agreed by them.

That the voices of the Prophet's wives were raised over this matter shows that they were jealous of each other, which is normal in such situations. The hadith reflects the Prophet's fine manners and how he was keen to please everyone. The Ḥanafīs may cite this hadith in support of their view that touching a woman does not invalidate ablution, as the hadith mentions that the Prophet stretched his hand then went out to prayer without having a fresh *wudu*. There is no evidence in this for them because the hadith does not mention that the Prophet touched his wife without cover. Their purpose can only be met if the case is one of a skin-to-skin touch then praying without performing a fresh *wudu*. This hadith gives no such information.

Abu Bakr said to the Prophet to put dust into their mouths. This is an exaggerated form of stopping their dispute. It tells of Abu Bakr’s care and looking for what best serves the community. It also shows that one can offer advice to someone who is better or higher than oneself, but God knows best.

CHAPTER 14

GIFTING A WIFE'S SHARE

[3188–47]. (Dar al-Salam 3451) Zuhayr ibn Ḥarb narrated: Jarīr narrated; from Hishām ibn ʿUrwah; from his father; from ʿĀ'ishah. She said: **'I have never known a woman whom I would love to be like than Sawdh bint Zamʿah. She was a sharp woman. When she grew old, she gifted her turn with God's Messenger to ʿĀ'ishah. She said: "Messenger of God, I give my day with you to ʿĀ'ishah". Subsequently, God's Messenger used to assign two days to ʿĀ'ishah: her own day and Sawdah's day'.**

حَدَّثَنَا زُهَيْرُ بْنُ حَرْبٍ، حَدَّثَنَا جَرِيرٌ، عَنْ هِشَامِ بْنِ عُرْوَةَ، عَنْ أَبِيهِ، عَنْ عَائِشَةَ قَالَتْ: مَا رَأَيْتُ امْرَأَةً أَحَبَّ إِلَىَّ أَنْ أَكُونَ فِي مِسْلاَخِهَا مِنْ سَوْدَةَ بِنْتِ زَمْعَةَ، مِنِ امْرَأَةٍ فِيهَا حِدَّةٌ. قَالَتْ: فَلَـمَّا كَبِرَتْ جَعَلَتْ يَوْمَهَا مِنْ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ لِعَائِشَةَ. قَالَتْ: يَا رَسُولَ اللهِ قَدْ جَعَلْتُ يَوْمِي مِنْكَ لِعَائِشَةَ . فَكَانَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ يَقْسِمُ لِعَائِشَةَ يَوْمَيْنِ: يَوْمَهَا وَيَوْمَ سَوْدَةَ.

[3189–48]. (Dar al-Salam 3452) Abu Bakr ibn Abi Shaybah narrated:[i] ʿUqbah ibn Khālid narrated [H]. Also, ʿAmr al-Nāqid narrated:[ii] al-Aswad ibn ʿĀmir narrated; Zuhayr narrated [H]. And Mujāhid ibn Mūsā narrated; Yūnus ibn Muhammad narrated; Sharīk narrated; all from Hishām; with this chain of transmission;

that **‘When Sawdah grew old…’ the same meaning as Jarīr’s narration. He added in Sharīk’s narration: ‘She said: “She was the first woman he married after me”.’**

حَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا عُقْبَةُ بْنُ خَالِدٍ، ح. وَحَدَّثَنَا عَمْرٌو النَّاقِدُ، حَدَّثَنَا الأَسْوَدُ بْنُ عَامِرٍ، حَدَّثَنَا زُهَيْرٌ، ح. وَحَدَّثَنَا مُجَاهِدُ بْنُ مُوسَى، حَدَّثَنَا يُونُسُ بْنُ مُحَمَّدٍ، حَدَّثَنَا شَرِيكٌ، كُلُّهُمْ عَنْ هِشَامٍ، بِهَذَا الإِسْنَادِ: أَنَّ سَوْدَةَ، لَـمَّا كَبِرَتْ.. . بِمَعْنَى حَدِيثِ جَرِيرٍ. وَزَادَ فِي حَدِيثِ شَرِيكٍ قَالَتْ: وَكَانَتْ أَوَّلَ امْرَأَةٍ تَزَوَّجَهَا بَعْدِي.

[3190–49]. (Dar al-Salam 3453) Abu Kurayb Muhammad ibn al-ʿAlā’ narrated:[iii] Abu Usāmah narrated; from Hishām; from his father; from ʿĀ’ishah. She said: **‘I used to disapprove of the women who offered themselves freely to God’s Messenger (peace be upon him). I thought: “Would a woman gift herself?” Then when God, Mighty and Exalted, revealed: “You may defer any of them you please and take to yourself any of them you please. No blame will attach to you if you invite one whose turn you have previously set aside”, (33: 51) I said: “By God, I see that your Lord gives you all that you desire”.’**

حَدَّثَنَا أَبُو كُرَيْبٍ مُحَمَّدُ بْنُ الْعَلاَءِ، حَدَّثَنَا أَبُو أُسَامَةَ، عَنْ هِشَامٍ، عَنْ أَبِيهِ، عَنْ عَائِشَةَ قَالَتْ: كُنْتُ أَغَارُ عَلَى اللاَّتِي وَهَبْنَ أَنْفُسَهُنَّ لِرَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، وَأَقُولُ: وَتَهَبُ الْـمَرْأَةُ نَفْسَهَا؟ فَلَـمَّا أَنْزَلَ اللهُ عَزَّ وَجَلَّ: تُرْجِي مَنْ تَشَاءُ مِنْهُنَّ وَتُؤْوِي إِلَيْكَ مَنْ تَشَاءُ، وَمَنِ

ابْتَغَيْتَ مِمَّنْ عَزَلْتَ»، قَالَتْ: قُلْتُ وَاللهِ مَا أَرَى رَبَّكَ إِلاَّ يُسَارِعُ لَكَ فِي هَوَاكَ.

[3191–50]. (Dar al-Salam 3454) Abu Bakr ibn Abi Shaybah narrated:[iv] ʿAbdah ibn Sulaymān narrated; from Hishām; from his father; from ʿĀ'ishah; that: **'I used to say: "Would a woman have no sense of shame as to offer herself to a man?" Then when God, Mighty and Exalted revealed: "You may defer any of them you please and take to yourself any of them you please. No blame will attach to you if you invite one whose turn you have previously set aside", I said: "Your Lord certainly gives you all that you desire".'**

وَحَدَّثَنَاهُ أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا عَبْدَةُ بْنُ سُلَيْمَانَ، عَنْ هِشَامٍ، عَنْ أَبِيهِ، عَنْ عَائِشَةَ، أَنَّهَا كَانَتْ تَقُولُ: أَمَا تَسْتَحْيِي امْرَأَةٌ تَهَبُ نَفْسَهَا لِرَجُلٍ؟ حَتَّى أَنْزَلَ اللهُ عَزَّ وَجَلَّ: «تُرْجِي مَنْ تَشَاءُ مِنْهُنَّ وَتُؤْوِي إِلَيْكَ مَنْ تَشَاءُ»، فَقُلْتُ: إِنَّ رَبَّكَ لَيُسَارِعُ لَكَ فِي هَوَاكَ.

[3192–51]. (Dar al-Salam 3455) Isḥāq ibn Ibrāhīm and Muhammad ibn Ḥātim narrated:[v] Muhammad ibn Ḥātim said: Muhammad ibn Bakr narrated; Ibn Jurayj reported; ʿAṭā' reported to me. He said: **'We attended Maymūnah's funeral with Ibn ʿAbbās at Sarif. Ibn ʿAbbās said: "This [lady] was the Prophet's wife. When you lift her bier, do not disturb or shake it, but be gentle. God's Messenger (peace be upon him) had nine wives, and he divided his nights between eight of them and did not give a share to one of them".'**

ʿAṭā’ said: **‘The one he did not give a share to was Ṣafiyyah bint Ḥuyay ibn Akhṭab’.**

حَدَّثَنَا إِسْحَاقُ بْنُ إِبْرَاهِيمَ، وَمُحَمَّدُ بْنُ حَاتِمٍ، قَالَ مُحَمَّدُ بْنُ حَاتِمٍ: حَدَّثَنَا مُحَمَّدُ بْنُ بَكْرٍ، أَخْبَرَنَا ابْنُ جُرَيْجٍ، أَخْبَرَنِي عَطَاءٌ، قَالَ: حَضَرْنَا مَعَ ابْنِ عَبَّاسٍ جَنَازَةَ مَيْمُونَةَ زَوْجِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ بِسَرِفَ. فَقَالَ ابْنُ عَبَّاسٍ: هَذِهِ زَوْجُ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، فَإِذَا رَفَعْتُمْ نَعْشَهَا فَلاَ تُزَعْزِعُوا، وَلاَ تُزَلْزِلُوا، وَارْفُقُوا. فَإِنَّهُ كَانَ عِنْدَ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ تِسْعٌ فَكَانَ يَقْسِمُ لِثَمَانٍ، وَلاَ يَقْسِمُ لِوَاحِدَةٍ .

قَالَ عَطَاءٌ: الَّتِي لاَ يَقْسِمُ لَهَا صَفِيَّةُ بِنْتُ حُيَىِّ بْنِ أَخْطَبَ.

[3193–52]. (Dar al-Salam 3456) Muhammad ibn Rāfiʿ and ʿAbd ibn Ḥumayd narrated: both from ʿAbd al-Razzāq; from Ibn Jurayj; with the same chain of transmission: **the same text, but added: ‘ʿAṭā’ said: “She was the last one to die; she died in Madinah”.’**

حَدَّثَنَا مُحَمَّدُ بْنُ رَافِعٍ، وَعَبْدُ بْنُ حُمَيْدٍ، جَمِيعًا عَنْ عَبْدِ الرَّزَّاقِ، عَنِ ابْنِ جُرَيْجٍ، بِهَذَا الإِسْنَادِ: وَزَادَ قَالَ عَطَاءٌ: كَانَتْ آخِرَهُنَّ مَوْتًا، مَاتَتْ بِالْـمَدِينَةِ.

Text Explanation

Hadith No. 3188 quotes ʿĀ'ishah speaking of Sawdah, another of the Prophet's wives, and saying that she was the one woman she would prefer to be like. In fact, the Arabic text literally means 'the woman I would like to be'. She describes Sawdah as a 'sharp woman', which means 'strong-willed and intelligent'. The hadith mentions that when Sawdah grew old, she gifted her turn to ʿĀ'ishah. This makes clear that a woman who shares her husband with other wives may give her turn to another wife, but this requires the husband's agreement because he has a right to the giver, and his right may not be dispensed with without his consent. She may not seek to have some recompense for making such a gift. On the other hand, she may make her turn a gift to her husband, and he then gives it to anyone he wishes of his wives. Some scholars said that he should divide this share between his other wives, thus making the giver as absent. The first view is the more correct one. The giver may reclaim her gift whenever she wishes, but this affects the future turns, not the past ones. Only the portion that has not been used of a gift may be reclaimed.

Sawdah said to the Prophet: 'I give my day with you to ʿĀ'ishah'. The words 'my day' means in this instance 'my share', which is a day and a night. When Sawdah said this 'God's Messenger used to assign two days to ʿĀ'ishah: her own day and Sawdah's day'. This means that he would be with ʿĀ'ishah on her own turn and also on the day which was Sawdah's turn. It does not mean that he gave ʿĀ'ishah two consecutive days. The more correct view of our scholars is that giving the recipient of such a gift two consecutive days is only permissible if the other wives agree. Some of our scholars, however, consider it permissible without their consent, but this is a weak view.

In hadith No. 3189, ʿĀ'ishah says that Sawdah 'was the first woman he married after me'. This is how Muslim mentions it in Yūnus' narration from Sharīk, meaning that the Prophet married ʿĀ'ishah before Sawdah. The

same is mentioned by Yūnus from al-Zuhrī and ʿAbdullāh ibn Muhammad ibn ʿUqayl. However, ʿUqayl ibn Khālid reports from al-Zuhrī that the Prophet married Sawdah before ʿĀ'ishah. Ibn ʿAbd al-Barr said that it is stated by Qatādah and Abu ʿUbaydah. I may add that it is mentioned by Muhammad ibn Isḥāq, Muhammad ibn Saʿd, al-Wāqidī's scribe, Ibn Qutaybah and others.

ʿĀ'ishah says to the Prophet in hadith No. 3191: 'Your Lord certainly gives you all that you desire'. She meant that God makes things easier for the Prophet, giving him permission to do what he desires, making his choices as he wishes.

In hadith No. 3190, ʿĀ'ishah says: 'I used to disapprove of the women who offered themselves freely to God's Messenger (peace be upon him). I thought: "Would a woman gift herself?" Then when God, Mighty and Exalted, revealed: "You may defer any of them you please, and take to yourself any of them you please…"'. This is one of the special privileges God has given to the Prophet (peace be upon him). It is to marry any woman who offers herself to him, without paying her a dowry. God says in the same verse: 'This applies to you alone and not to other believers'. (33: 50)

Scholars have different views concerning the verse that says: 'You may defer any of them you please, and take to yourself any of them you please'. (33: 51) Some said that it abrogates the next verse that says: 'You [Muhammad] are not permitted to take any further wives, nor to exchange these for other wives'. (33: 52) It permits him to marry as he pleased. It is also expressed that the abrogation of the said verse was by the Sunnah, as the Prophet married Maymūnah, Mulaykah, Ṣafiyyah and Juwayriyyah after the revelation of the said verse. ʿĀ'ishah also said: 'God permitted the Prophet to marry before his death'. The opposite was also said, meaning that the verse that says, 'You are not permitted to take any further wives…' (33: 52) abrogated the previous verse: 'You may defer any of them you please' (33: 51), but the first view is more correct. Our scholars said: 'The

more correct statement is that the Prophet was permitted further wives before he passed away'.

In hadith No. 3192 ʿAṭā' mentions attending Maymūnah's funeral at Sarif. Scholars are in agreement that she passed away at Sarif, a place close to Makkah, at six miles distance from Makkah, but the distance is also variously put at seven, nine and twelve miles from Makkah. The same hadith mentions that the Prophet had nine wives but divided his nights among eight of them. ʿAṭā' adds that the one he did not give a share to was Ṣafiyyah. That the Prophet had nine wives is correct, and we mentioned their names earlier. Also, that he divided his nights between eight of them is also well-known. As for Ṣafiyyah being the one without a share, scholars say that this is an error by Ibn Jurayj, the narrator from ʿAṭā'. The correct wife who was not given a share was Sawdah, who had gifted her night to ʿĀ'ishah, as explained earlier. As for the woman who offered herself freely to the Prophet, al-Zuhrī said that she was Maymūnah. It is also said that she was Umm Sharīk, and also Zaynab bint Khuzaymah.

Hadith No. 3193 mentions ʿAṭā''s statement: 'She was the last one to die; she died in Madinah'. *Qadi* ʿIyāḍ said: 'The apparent meaning of ʿAṭā''s statement is that he meant Maymūnah. It is mentioned in the hadith that she died at Sarif, which is close to Makkah. Therefore, to suggest that she died in Madinah is a mistake. As for the last of the Prophet's wives to die, it is said that Maymūnah died in year 63 AH, but it is also mentioned that her death was in 66 AH. Another suggestion is that she died in year 51 before ʿĀ'ishah who died in 57 or 58 AH. Ṣafiyyah, on the other hand, died in year 50 AH, in Madinah'. This is what *Qadi* ʿIyāḍ said on this point. It is probable that the statement 'she died in Madinah' refers to Ṣafiyyah. The way it is expressed is clear and allows this meaning, but God knows best.

i. Related by Ibn Mājah, 1872.
ii. Related by al-Bukhari, 5212.
iii. Related by al-Bukhari, 4788; al-Nasā'ī, 3199.
iv. Related by al-Bukhari, 5113; Ibn Mājah, 2000.
v. Related by al-Bukhari, 5067; al-Nasā'ī, 3196.

CHAPTER 15

THE DESIRABILITY OF MARRYING A RELIGIOUS WOMAN

[3194–53]. (Dar al-Salam 3457) Zuhayr ibn Ḥarb, Muhammad ibn al-Muthannā and ʿUbaydullāh ibn Saʿīd narrated: they said: Yaḥyā ibn Saʿīd narrated; from ʿUbaydullāh; Saʿīd ibn Abi Saʿīd reported to me; from his father; from Abu Hurayrah; from the Prophet (peace be upon him). He said: **‘A woman is sought in marriage for four things: her wealth, family lineage, beauty and faith. Make sure to have the religious one, [for if you do not] you end up the poorer’.**

حَدَّثَنَا زُهَيْرُ بْنُ حَرْبٍ، وَمُحَمَّدُ بْنُ الْـمُثَنَّى، وَعُبَيْدُ اللهِ بْنُ سَعِيدٍ، قَالُوا: حَدَّثَنَا يَحْيَى بْنُ سَعِيدٍ، عَنْ عُبَيْدِ اللهِ، أَخْبَرَنِي سَعِيدُ بْنُ أَبِي سَعِيدٍ، عَنْ أَبِيهِ، عَنْ أَبِي هُرَيْرَةَ، عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: «تُنْكَحُ الْـمَرْأَةُ لأَرْبَعٍ: لِـمَالِهَا، وَلِحَسَبِهَا، وَلِجَمَالِهَا، وَلِدِينِهَا. فَاظْفَرْ بِذَاتِ الدِّينِ تَرِبَتْ يَدَاكَ».

[3195–54]. (Dar al-Salam 3458) Muhammad ibn ʿAbdullāh ibn Numayr narrated: my father narrated; ʿAbd al-Malik ibn Abi Sulaymān narrated; from ʿAṭā’; Jābir ibn ʿAbdullāh told me: **‘I married a woman during God’s Messenger’s lifetime. I met the Prophet (peace be upon him), and he said: “Jābir, have you got**

married?” I said: “Yes”. He said: “A virgin or a previously married woman? I said: “Previously married”. He said: “Should you have not married a virgin with whom to have fun?” I said: “Messenger of God, I have sisters, and I feared that she might disturb relations between them and myself”. He said: “That is it, then. A woman is sought in marriage for her faith, wealth and beauty. Choose the religious one, [for if you do not] you end up the poorer”.’

وَحَدَّثَنَا مُحَمَّدُ بْنُ عَبْدِ اللهِ بْنِ نُمَيْرٍ، حَدَّثَنَا أَبِي، حَدَّثَنَا عَبْدُ الْـمَلِكِ بْنُ أَبِي سُلَيْمَانَ، عَنْ عَطَاءٍ، أَخْبَرَنِي جَابِرُ بْنُ عَبْدِ اللهِ قَالَ: تَزَوَّجْتُ امْرَأَةً فِي عَهْدِ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، فَلَقِيتُ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، فَقَالَ: «يَا جَابِرُ، تَزَوَّجْتَ»؟ قُلْتُ نَعَمْ . قَالَ: «بِكْرٌ أَمْ ثَيِّبٌ»؟ قُلْتُ ثَيِّبٌ . قَالَ: «فَهَلاَّ بِكْرًا تُلاَعِبُهَا ». قُلْتُ: يَا رَسُولَ اللهِ إِنَّ لِي أَخَوَاتٍ، فَخَشِيتُ أَنْ تَدْخُلَ بَيْنِي وَبَيْنَهُنَّ . قَالَ: «فَذَاكَ إِذنْ . إِنَّ الْـمَرْأَةَ تُنْكَحُ عَلَى دِينِهَا، وَمَالِهَا، وَجَمَالِهَا. فَعَلَيْكَ بِذَاتِ الدِّينِ تَرِبَتْ يَدَاكَ».

Text Explanation

In the first hadith, the Prophet says: ‘A woman is sought in marriage for four things: her wealth, family lineage, beauty and faith. Make sure to have the religious one, [for if you do not] you end up the poorer’. The correct thing to say as to the meaning of this hadith is that the Prophet speaks about what people normally do. They have one of these four objectives in mind when they get married. The last they consider is the religion of the woman they seek. The Prophet then gives this advice to anyone who seeks sincere counsel; that he should choose a religious woman for his wife. This is not an order, rather a piece of advice.

This hadith urges people to seek religious people for their companions in all situations because one benefits by their manners, propriety, blessings, etc. and fears no harm will come to him from them.

The last sentence in the hadith says: ‘For if you do not, you end up the poorer’. This is a linguistic meaning of the expression used in the hadith, *taribat yadāk*. Its literal meaning is ‘your hands will catch dust’. It is agreed that it means ending up the poorer for doing what one should not do. It is unanimously agreed that the expression has lost its meaning, and that people may use it merely to urge a certain way of action or encourage a particular choice.

CHAPTER 16

THE DESIRABILITY OF MARRYING A VIRGIN

[3196–55]. (Dar al-Salam 3459) ʿUbaydullāh ibn Muʿādh narrated:[i] my father narrated; Shuʿbah narrated; from Muḥārib; from Jābir ibn ʿAbdullāh. He said: **‘I married a woman. God’s Messenger (peace be upon him) asked me: “Have you got married?” I said: “Yes”. He asked: “A virgin or a previously married woman?” I said: “Previously married”. He said: “How could you miss out on a virgin and her play?”’**

Shuʿbah said: I mentioned this to ʿAmr ibn Dīnār and he said: I heard it from Jābir, but he said: **‘Should you not have married a young one to play with’.**

حَدَّثَنَا عُبَيْدُ اللهِ بْنُ مُعَاذٍ، حَدَّثَنَا أَبِي، حَدَّثَنَا شُعْبَةُ، عَنْ مُحَارِبٍ، عَنْ جَابِرِ بْنِ عَبْدِ اللهِ قَالَ: تَزَوَّجْتُ امْرَأَةً، فَقَالَ لِي رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «هَلْ تَزَوَّجْتَ»؟ قُلْتُ نَعَمْ . قَالَ: «أَبِكْرًا أَمْ ثَيِّبًا»؟ قُلْتُ ثَيِّبًا. قَالَ: «فَأَيْنَ أَنْتَ مِنَ الْعَذَارَى وَلِعَابِهَا»؟

قَالَ شُعْبَةُ: فَذَكَرْتُهُ لِعَمْرِو بْنِ دِينَارٍ فَقَالَ: قَدْ سَمِعْتُهُ مِنْ جَابِرٍ، وَإِنَّمَا قَالَ: «فَهَلاَّ جَارِيَةً تُلاَعِبُهَا وَتُلاَعِبُكَ».

[3197–56]. (Dar al-Salam 3460) Yaḥyā ibn Yaḥyā and Abu al-Rabīʿ al-Zahrānī narrated:[ii] Yaḥyā said: Ḥammād ibn Zayd reported; from ʿAmr ibn Dīnār; from Jābir ibn ʿAbdullāh; that **‘ʿAbdullāh died leaving behind nine (or he might have said: seven) daughters. I married a woman who was married previously. God’s Messenger said to me: “Jābir, have you got married?” I said: “Yes”. He asked: “A virgin or a previously married woman?” I said: “Previously married”. He said: “Should you not have married a maid to play with (or he said: to have fun with). I said to him: “ʿAbdullāh has died leaving behind nine (or seven) daughters, and I did not like to bring them one like them. I preferred to bring a mature woman to look after them and put them on the right course”. He said: “May God bless it for you”, or he said something good’.**

In Abu al-Rabīʿ’s narration: **‘to play and have fun with’.**

حَدَّثَنَا يَحْيَى بْنُ يَحْيَى، وَأَبُو الرَّبِيعِ الزَّهْرَانِيُّ، قَالَ يَحْيَى: أَخْبَرَنَا حَمَّادُ بْنُ زَيْدٍ، عَنْ عَمْرِو بْنِ دِينَارٍ، عَنْ جَابِرِ بْنِ عَبْدِ اللهِ، أَنَّ عَبْدَ اللهِ هَلَكَ وَتَرَكَ تِسْعَ بَنَاتٍ - أَوْ قَالَ سَبْعَ. فَتَزَوَّجْتُ امْرَأَةً ثَيِّبًا، فَقَالَ لِي رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «يَا جَابِرُ، تَزَوَّجْتَ»؟ قَالَ قُلْتُ نَعَمْ . قَالَ: «فَبِكْرٌ أَمْ ثَيِّبٌ»؟ قَالَ: قُلْتُ بَلْ ثَيِّبٌ يَا رَسُولَ اللهِ . قَالَ: «فَهَلاَّ جَارِيَةً تُلاَعِبُهَا وَتُلاَعِبُكَ». أَوْ قَالَ: «تُضَاحِكُهَا وَتُضَاحِكُكَ». قَالَ: قُلْتُ لَهُ إِنَّ عَبْدَ اللهِ هَلَكَ وَتَرَكَ تِسْعَ بَنَاتٍ - أَوْ سَبْعَ. وَإِنِّي كَرِهْتُ أَنْ آتِيَهُنَّ أَوْ أَجِيئَهُنَّ بِمِثْلِهِنَّ، فَأَحْبَبْتُ أَنْ أَجِيءَ بِامْرَأَةٍ تَقُومُ عَلَيْهِنَّ وَتُصْلِحُهُنَّ . قَالَ: «فَبَارَكَ اللهُ لَكَ». أَوْ قَالَ لِي خَيْرًا.

وَفِي رِوَايَةِ أَبِي الرَّبِيعِ: «تُلاَعِبُهَا وَتُلاَعِبُكَ، وَتُضَاحِكُهَا وَتُضَاحِكُكَ».

[3198–000]. (Dar al-Salam 3461) Qutaybah ibn Saʿīd narrated:[iii] Sufyān narrated; from ʿAmr; from Jābir ibn ʿAbdullāh. He said: **‘God’s Messenger (peace be upon him) said to me: “Have you got married, Jābir?”’ He added the same hadith up to ‘mature woman to look after them and put them right’. He said: ‘You have done well’ but did not mention the rest.**

وَحَدَّثَنَاهُ قُتَيْبَةُ بْنُ سَعِيدٍ، حَدَّثَنَا سُفْيَانُ، عَنْ عَمْرٍو، عَنْ جَابِرِ بْنِ عَبْدِ اللهِ قَالَ: قَالَ لِي رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «هَلْ نَكَحْتَ يَا جَابِرُ»؟ وَسَاقَ الْحَدِيثَ إِلَى قَوْلِهِ امْرَأَةً تَقُومُ عَلَيْهِنَّ وَتَمْشُطُهُنَّ. قَالَ: «أَصَبْتَ». وَلَمْ يَذْكُرْ مَا بَعْدَهُ.

[3199–57]. (Dar al-Salam 3462) Yaḥyā ibn Yaḥyā narrated:[iv] Hushaym reported; from Sayyār; from al-Shaʿbī; from Jābir ibn ʿAbdullāh. He said: **‘We were on a military expedition with God’s Messenger. When we were on the way back, I tried to get my slow camel to speed up. A rider behind me caught up with me and poked my camel with a stick he had. My camel ran like the best camels you can see. I turned back and saw God’s Messenger (peace be upon him). He said: “Jābir, why are you in a hurry?” I said: “Messenger of God, I am newly married”. He asked: “Is your wife a virgin or a previously married woman?” I said: “Previously married”. He said: “Should you not have married a young woman to play with?”’**

He said: ‘When we were close to Madinah, we wanted to enter. He said: “Wait here and we will enter at night, so that the one who needs to have her hair done may do it and the one who has been without her husband may clean herself”. He added: “When you come back [from a journey], take it gently”.’

حَدَّثَنَا يَحْيَى بْنُ يَحْيَى، أَخْبَرَنَا هُشَيْمٌ، عَنْ سَيَّارٍ، عَنِ الشَّعْبِيِّ، عَنْ جَابِرِ بْنِ عَبْدِ اللهِ قَالَ: كُنَّا مَعَ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فِي غَزَاةٍ. فَلَـمَّا أَقْبَلْنَا، تَعَجَّلْتُ عَلَى بَعِيرٍ لِي قَطُوفٍ. فَلَحِقَنِي رَاكِبٌ خَلْفِي، فَنَخَسَ بَعِيرِي بِعَنَزَةٍ كَانَتْ مَعَهُ، فَانْطَلَقَ بَعِيرِي كَأَجْوَدِ مَا أَنْتَ رَاءٍ مِنَ الإِبِلِ. فَالْتَفَتُّ فَإِذَا أَنَا بِرَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَقَالَ: «مَا يُعْجِلُكَ يَا جَابِرُ»؟ قُلْتُ: يَا رَسُولَ اللهِ، إِنِّي حَدِيثُ عَهْدٍ بِعُرْسٍ. فَقَالَ: «أَبِكْرًا تَزَوَّجْتَهَا أَمْ ثَيِّبًا»؟ قَالَ: قُلْتُ بَلْ ثَيِّبًا. قَالَ: «هَلاَّ جَارِيَةً تُلاَعِبُهَا وَتُلاَعِبُكَ».

قَالَ: فَلَـمَّا قَدِمْنَا الْـمَدِينَةَ ذَهَبْنَا لِنَدْخُلَ، فَقَالَ: «أَمْهِلُوا، حَتَّى نَدْخُلَ لَيْلاً - أَيْ عِشَاءً - كَيْ تَمْتَشِطَ الشَّعِثَةُ، وَتَسْتَحِدَّ الْـمُغِيبَةُ». قَالَ: وَقَالَ: «إِذَا قَدِمْتَ، فَالْكَيْسَ الْكَيْسَ».

[3200–000]. (Dar al-Salam 3463) Muhammad ibn al-Muthannā narrated: ʿAbd al-Wahhāb (meaning Ibn ʿAbd al-Majīd al-Thaqafī) narrated; ʿUbaydullāh narrated; from Wahb ibn Kaysān; from Jābir ibn ʿAbdullāh. He said: **‘I travelled with God’s Messenger (peace be upon him) on a military expedition. My camel slowed down. God’s Messenger (peace be upon him) came to me. He said: “Jābir!” I said: “Yes”. He said: “What is the matter with you?”**

I said: “My camel has slowed down. It is suffering from fatigue and causing me to lag behind”. He dismounted and poked the camel with his bent-head stick. He then said: “Mount”. I mounted. I could see it [the camel] as I would move it away from God’s Messenger (peace be upon him). He then asked: “Have you got married?” I said: “Yes”. He said: “A virgin or a previously married woman?” I said: “She was previously married”. He said: “Would it not have been better to marry a young one to play with?” I said: “I have sisters and I preferred to marry a woman who could keep them together, mend their ways and look after them”. He said: “Now that you are returning, when you come [from a journey] take it gently”. He then asked me: “Would you sell your camel?” I said: “Yes”. He bought it from me for an *ūqiyyah*.

Then God’s Messenger arrived, and I came the following morning. I went to the mosque, and I found him by the gate of the mosque. He said: “Have you just arrived?” I said: “Yes”. He said: “Leave your camel and go in to pray two *rakʿahs*”. I went in, prayed and came back. He ordered Bilāl to weigh me an *ūqiyyah*. Bilāl weighed it for me allowing more weight. I left. When I moved away, he said: “Call Jābir back for me”. I was called back. I thought that now he will return the camel to me, and nothing was more unpleasant to me than this. He said: “Take your camel and keep its price”.’

حَدَّثَنَا مُحَمَّدُ بْنُ الْـمُثَنَّى، حَدَّثَنَا عَبْدُ الْوَهَّابِ (يَعْنِي ابْنَ عَبْدِ الْـمَجِيدِ الثَّقَفِيَّ)، حَدَّثَنَا عُبَيْدُ اللهِ، عَنْ وَهْبِ بْنِ كَيْسَانَ، عَنْ جَابِرِ بْنِ عَبْدِ اللهِ،

قَالَ: خَرَجْتُ مَعَ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فِي غَزَاةٍ، فَأَبْطَأَ بِي جَمَلِي. فَأَتَى عَلَيَّ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَقَالَ لِي: «يَا جَابِرُ». قُلْتُ نَعَمْ . قَالَ: «مَا شَأْنُكَ»؟ قُلْتُ: أَبْطَأَ بِي جَمَلِي وَأَعْيَا فَتَخَلَّفْتُ. فَنَزَلَ، فَحَجَنَهُ بِمِحْجَنِهِ، ثُمَّ قَالَ: «ارْكَبْ». فَرَكِبْتُ. فَلَقَدْ رَأَيْتُنِي أَكُفُّهُ عَنْ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ. فَقَالَ: «أَتَزَوَّجْتَ»؟ فَقُلْتُ نَعَمْ . فَقَالَ: «أَبِكْرًا أَمْ ثَيِّبًا»؟ فَقُلْتُ بَلْ ثَيِّبٌ . قَالَ: «فَهَلاَّ جَارِيَةً تُلاَعِبُهَا وَتُلاَعِبُكَ». قُلْتُ: إِنَّ لِي أَخَوَاتٍ، فَأَحْبَبْتُ أَنْ أَتَزَوَّجَ امْرَأَةً تَجْمَعُهُنَّ، وَتَمْشُطُهُنَّ، وَتَقُومُ عَلَيْهِنَّ. قَالَ: «أَمَا إِنَّكَ قَادِمٌ، فَإِذَا قَدِمْتَ فَالْكَيْسَ الْكَيْسَ» . ثُمَّ قَالَ: «أَتَبِيعُ جَمَلَكَ»؟ قُلْتُ نَعَمْ. فَاشْتَرَاهُ مِنِّي بِأُوقِيَّةٍ.

ثُمَّ قَدِمَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، وَقَدِمْتُ بِالْغَدَاةِ فَجِئْتُ الْـمَسْجِدَ، فَوَجَدْتُهُ عَلَى بَابِ الْـمَسْجِدِ، فَقَالَ: «الآنَ حِينَ قَدِمْتَ»؟ قُلْتُ نَعَمْ . قَالَ: «فَدَعْ جَمَلَكَ، وَادْخُلْ فَصَلِّ رَكْعَتَيْنِ». قَالَ: فَدَخَلْتُ فَصَلَّيْتُ، ثُمَّ رَجَعْتُ. فَأَمَرَ بِلاَلاً أَنْ يَزِنَ لِي أُوقِيَّةً، فَوَزَنَ لِي بِلاَلٌ فَأَرْجَحَ فِي الْمِيزَانِ. قَالَ: فَانْطَلَقْتُ، فَلَـمَّا وَلَّيْتُ قَالَ: «ادْعُ لِي جَابِرًا». فَدُعِيتُ، فَقُلْتُ: الآنَ يَرُدُّ عَلَيَّ الْجَمَلَ . وَلَمْ يَكُنْ شَىْءٌ أَبْغَضَ إِلَيَّ مِنْهُ. فَقَالَ: «خُذْ جَمَلَكَ وَلَكَ ثَمَنُهُ».

[3201–58]. (Dar al-Salam 3464) Muhammad ibn ʿAbd al-Aʿlā narrated:[v] al-Muʿtamir narrated; he said: I heard my father; Abu Naḍrah narrated; from Jābir ibn ʿAbdullāh. He said: **‘We were on a journey with God’s Messenger (peace be upon him), and I was riding a camel used for irrigation. He was in the rear of people.**

God’s Messenger hit it – or he said – he poked it (I think he said) with something he had. After that, the camel was in the front of people, pulling ahead and I was trying to control it. God’s Messenger (peace be upon him) said: “Will you sell it to me for such-and-such? And may God forgive you” I said: “It is yours, Prophet”. He said: “Will you sell it to me for such-and-such? And may God forgive you” I said: “It is yours, Prophet”. He also said to me: “Have you got married after your father passed away?” I said: “Yes”. He asked: “A previously married or a virgin?” I said: “Previously married”. He said: “Would it not have been better that you marry a virgin to have fun and play with?”’

Abu Naḍrah said: **‘This became a word Muslims say to each other: “Do such-and-such and may God forgive you”.’**

حَدَّثَنَا مُحَمَّدُ بْنُ عَبْدِ الأَعْلَى، حَدَّثَنَا الْـمُعْتَمِرُ، قَالَ سَمِعْتُ أَبِي، حَدَّثَنَا أَبُو نَضْرَةَ، عَنْ جَابِرِ بْنِ عَبْدِ اللهِ قَالَ: كُنَّا فِي مَسِيرٍ مَعَ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، وَأَنَا عَلَى نَاضِحٍ إِنَّمَا هُوَ فِي أُخْرَيَاتِ النَّاسِ. قَالَ: فَضَرَبَهُ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، أَوْ قَالَ نَخَسَهُ - أُرَاهُ قَالَ - بِشَىْءٍ كَانَ مَعَهُ. قَالَ: فَجَعَلَ بَعْدَ ذَلِكَ يَتَقَدَّمُ النَّاسَ، يُنَازِعُنِي حَتَّى إِنِّي لأَكُفُّهُ. قَالَ: فَقَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «أَتَبِيعُنِيهِ بِكَذَا وَكَذَا، وَاللهُ يَغْفِرُ لَكَ»؟ قَالَ: قُلْتُ هُوَ لَكَ يَا نَبِيَّ اللهِ. قَالَ: «أَتَبِيعُنِيهِ بِكَذَا وَكَذَا وَاللهُ يَغْفِرُ لَكَ». قَالَ: قُلْتُ هُوَ لَكَ يَا نَبِيَّ اللهِ. قَالَ: وَقَالَ لِي: «أَتَزَوَّجْتَ بَعْدَ أَبِيكَ»؟ قُلْتُ نَعَمْ. قَالَ: «ثَيِّبًا أَمْ بِكْرًا»؟

قَالَ: قُلْتُ ثَيِّبًا. قَالَ: «فَهَلاَّ تَزَوَّجْتَ بِكْرًا تُضَاحِكُكَ وَتُضَاحِكُهَا، وَتُلاَعِبُكَ وَتُلاَعِبُهَا».

قَالَ أَبُو نَضْرَةَ فَكَانَتْ كَلِمَةً يَقُولُهَا الْـمُسْلِمُونَ: افْعَلْ كَذَا وَكَذَا وَاللهُ يَغْفِرُ لَكَ.

Text Explanation

In these hadiths, the Prophet enquires about Jābir's marital status. Jābir was, at the time, a young man, perhaps around twenty years of age. His father was killed in the Battle of Uḥud. Hence, the Prophet's suggestion that he should have married a young woman who was a virgin so that they might play and have fun together. The hadith highlights the preference of marrying virgins and that it carries a greater reward. It also recommends that one should treat one's wife gently and kindly, play with her and have fun. It also shows that a leader or a chief of a community should enquire after his people and companions, ask about their affairs and advise them, pointing the way that serves their interests and improves their situations.

In hadith No. 3197, Jābir says: 'I said to him: "ʿAbdullāh has died leaving behind nine (or seven) daughters, and I did not like to bring them one like them. I preferred to bring a mature woman to look after them and put them on the right course". He said: "May God bless it for you", or he said something good'. This shows Jābir's good character and how he thought of his sisters' interest ahead of his own. The hadith also recommends supplicating for those who do a good deed and blessing them, whether it benefits the supplicant or not. It also shows that it is perfectly permissible to expect a woman to take care of her husband and his dependants, if she is willing to do so. If she is unwilling, she may not be asked to do it.

Hadith No. 3199 mentions that Jābir was trying to get his camel to speed up, but it was slow. The Prophet poked the camel with a stick he had. The stick mentioned here is ʿ*anazah*, which is about half the length of a spear with a piece of iron or metal at the end. The camel ran faster after that. This is one of the clear miracles of the Prophet showing the effect of his blessing.

When they were at the outskirts of Madinah, the Prophet tells his Companions not to go straight home but to wait until the evening so as to

give their women time to get ready to receive them. He says: ‘so that the one who needs to have her hair done may do it and the one who has been without her husband may clean herself’. He gives two examples: the first is self-explanatory while the second refers to shaving her pubic hair.

This is another example of the need to always observe the best of manners. It reflects the Prophet’s care for Muslims, encourages overlooking faults, doing what strengthens ties and promoting whatever consolidates bonds. There is no conflict between this hadith and other authentic hadiths that discourages arriving at night when one has been on a journey. Those hadiths relate to one who arrives unexpectedly. In the case referred to by the hadiths in this chapter, the news of their imminent arrival would already have been given to the people, and the residents of Madinah were aware that they would be coming in at night. This would have allowed time for the women to do what was necessary to give their husbands and men a fine welcome, but God knows best.

In hadith No. 3200, the Prophet tells Jābir to offer two *rakʿahs* in the mosque. It is recommended for one who is returning from a journey to start by offering such prayer. The hadith also mentions that Bilāl gave Jābir more than an *ūqiyyah* [which was equivalent to 40 dirhams] when he weighed him the price of his camel. This is again recommended when giving the price of goods, repaying a debt, etc. We will discuss the case of Jābir’s sale of his camel to the Prophet in the Book of Sales, God willing.

i. Related by al-Bukhari, 5080.
ii. Related by al-Bukhari, 5367 and 6387; al-Tirmidhī, 1100; al-Nasā’ī, 3219.
iii. Related by al-Bukhari, 4052.
iv. Related by al-Bukhari, 5079, 5245, 5426 and 5247; Abu Dāwūd in a shorter version, 2778.
v. Related by al-Bukhari, 2718; al-Nasā’ī, 4655; Ibn Mājah, 2205.

CHAPTER 17

THE BEST OF COMFORTS

[3202–64].[i] (Dar al-Salam 3465) Muhammad ibn ʿAbdullāh ibn Numayr al-Hamdānī narrated to me:[ii] ʿAbdullāh ibn Yazīd narrated; Ḥaywah narrated; Shuraḥbīl ibn Sharīk reported to me; that he heard Abu ʿAbd al-Raḥmān al-Ḥubulī narrating; from ʿAbdullāh ibn ʿAmr; that God's Messenger (peace be upon him) said: **'The life of this world is a brief enjoyment, and the best comfort in this world is a goodly wife'.**

حَدَّثَنِي مُحَمَّدُ بْنُ عَبْدِ اللهِ بْنِ نُمَيْرٍ الْهَمْدَانِيُّ، حَدَّثَنَا عَبْدُ اللهِ بْنُ يَزِيدَ، حَدَّثَنَا حَيْوَةُ، أَخْبَرَنِي شُرَحْبِيلُ بْنُ شَرِيكٍ، أَنَّهُ سَمِعَ أَبَا عَبْدِ الرَّحْمَنِ الْحُبُلِيَّ، يُحَدِّثُ عَنْ عَبْدِ اللهِ بْنِ عَمْرٍو، أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: «الدُّنْيَا مَتَاعٌ، وَخَيْرُ مَتَاعِ الدُّنْيَا الْـمَرْأَةُ الصَّالِحَةُ».

i. There is some confusion in *al-Muʿjam al-Mufahras* numbering. As this affects only the last five hadiths in this book, we give the same numbers for easy reference.

ii. Related by al-Nasā'ī, 3232; Ibn Mājah, 1855.

CHAPTER 18

URGING THE KIND TREATMENT OF WOMEN

[3203–65]. (Dar al-Salam 3466) Ḥarmalah ibn Yaḥyā narrated to me: Ibn Wahb reported; Yūnus reported to me; from Ibn Shihāb; Ibn al-Musayyib narrated to me; from Abu Hurayrah. He said: **‘God’s Messenger (peace be upon him) said: “A woman is like a rib. If you try to straighten her, you break her. If you leave her as she is, you enjoy her company despite her crookedness”.’**

وَحَدَّثَنِي حَرْمَلَةُ بْنُ يَحْيَى، أَخْبَرَنَا ابْنُ وَهْبٍ، أَخْبَرَنِي يُونُسُ، عَنِ ابْنِ شِهَابٍ، حَدَّثَنِي ابْنُ الْـمُسَيَّبِ، عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «إِنَّ الْـمَرْأَةَ كَالضِّلَعِ، إِذَا ذَهَبْتَ تُقِيمُهَا كَسَرْتَهَا. وَإِنْ تَرَكْتَهَا اسْتَمْتَعْتَ بِهَا وَفِيهَا عِوَجٌ».

Zuhayr ibn Ḥarb and ʿAbd ibn Ḥumayd narrated it to me:[i] both from Yaʿqūb ibn Ibrāhīm ibn Saʿd; from al-Zuhrī’s nephew; from his uncle; with the same chain of transmission: **exactly the same text.**

وَحَدَّثَنِيهِ زُهَيْرُ بْنُ حَرْبٍ، وَعَبْدُ بْنُ حُمَيْدٍ، كِلاَهُمَا عَنْ يَعْقُوبَ بْنِ إِبْرَاهِيمَ بْنِ سَعْدٍ، عَنِ ابْنِ أَخِي الزُّهْرِيِّ، عَنْ عَمِّهِ، بِهَذَا الإِسْنَادِ: مِثْلَهُ سَوَاءً.

[3204–59]. (Dar al-Salam 3467) ʿAmr al-Nāqid and Ibn Abi ʿUmar narrated (Ibn Abi ʿUmar's text): both said: Sufyān narrated; from Abu al-Zināد; from al-Aʿraj; from Abu Hurayrah. He said: **'God's Messenger (peace be upon him) said: "A woman is created from a rib. She shall not remain straight for you in any way. If you enjoy her company, you do so despite her crookedness, but if you try to straighten her, you break her. Her break is her divorce'.**

حَدَّثَنَا عَمْرٌو النَّاقِدُ، وَابْنُ أَبِي عُمَرَ (وَاللَّفْظُ لِابْنِ أَبِي عُمَرَ)، قَالا: حَدَّثَنَا سُفْيَانُ، عَنْ أَبِي الزِّنَادِ، عَنِ الأَعْرَجِ، عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «إِنَّ الْـمَرْأَةَ خُلِقَتْ مِنْ ضِلَعٍ. لَنْ تَسْتَقِيمَ لَكَ عَلَى طَرِيقَةٍ. فَإِنِ اسْتَمْتَعْتَ بِهَا اسْتَمْتَعْتَ بِهَا وَبِهَا عِوَجٌ، وَإِنْ ذَهَبْتَ تُقِيمُهَا كَسَرْتَهَا. وَكَسْرُهَا طَلاَقُهَا».

[3205–60]. (Dar al-Salam 3468) Abu Bakr ibn Abi Shaybah narrated:[ii] Ḥusayn ibn ʿAlī narrated; from Zā'idah; from Maysarah; from Abu Ḥāzim; from Abu Hurayrah; from the Prophet (peace be upon him). He said: **'Whoever believes in God and the Last Day, let him, if he witnesses something, say what is good or remain silent. Take good care of women. A woman is created from a rib. The most crooked part of a rib is its top. If you try to straighten it, you break it, and if you leave it, it remains crooked. Take good care of women'.**

وَحَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا حُسَيْنُ بْنُ عَلِيٍّ، عَنْ زَائِدَةَ، عَنْ مَيْسَرَةَ، عَنْ أَبِي حَازِمٍ، عَنْ أَبِي هُرَيْرَةَ، عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ

وَسَلَّمَ قَالَ: مَنْ كَانَ يُؤْمِنُ بِاللهِ وَالْيَوْمِ الآخِرِ، فَإِذَا شَهِدَ أَمْرًا فَلْيَتَكَلَّمْ بِخَيْرٍ، أَوْ لِيَسْكُتْ. وَاسْتَوْصُوا بِالنِّسَاءِ، فَإِنَّ الْـمَرْأَةَ خُلِقَتْ مِنْ ضِلَعٍ. وَإِنَّ أَعْوَجَ شَىْءٍ فِي الضِّلَعِ أَعْلاَهُ. إِنْ ذَهَبْتَ تُقِيمُهُ كَسَرْتَهُ، وَإِنْ تَرَكْتَهُ لَمْ يَزَلْ أَعْوَجَ. اسْتَوْصُوا بِالنِّسَاءِ خَيْرًا.

[3206–61]. (Dar al-Salam 3469-3470) Ibrāhīm ibn Mūsā al-Rāzī narrated to me: ʿĪsā (meaning Ibn Yūnus) narrated; ʿAbd al-Ḥamīd ibn Jaʿfar narrated; from ʿImrān ibn Abi Anas; from ʿUmar ibn al-Ḥakam; from Abu Hurayrah. He said: **‘God’s Messenger (peace be upon him) said: “Let no believing man hate a believing woman. If he dislikes one of her traits, he may be pleased with another”,’ or he might have said ‘a different one’.**

وَحَدَّثَنِي إِبْرَاهِيمُ بْنُ مُوسَى الرَّازِيُّ، حَدَّثَنَا عِيسَى (يَعْنِي ابْنَ يُونُسَ)، حَدَّثَنَا عَبْدُ الْحَمِيدِ بْنُ جَعْفَرٍ، عَنْ عِمْرَانَ بْنِ أَبِي أَنَسٍ، عَنْ عُمَرَ بْنِ الْحَكَمِ، عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «لا يَفْرَكْ مُؤْمِنٌ مُؤْمِنَةً: إِنْ كَرِهَ مِنْهَا خُلُقًا، رَضِيَ مِنْهَا آخَرَ». أَوْ قَالَ: «غَيْرَهُ».

Muhammad ibn al-Muthannā narrated; Abu ʿĀṣim narrated; ʿAbd al-Ḥamīd ibn Jaʿfar narrated; from ʿImrān ibn Abi Anas; from ʿUmar ibn al-Ḥakam; from Abu Hurayrah; from the Prophet (peace be upon him): **the same text.**

وَحَدَّثَنَا مُحَمَّدُ بْنُ الْـمُثَنَّى، حَدَّثَنَا أَبُو عَاصِمٍ، حَدَّثَنَا عَبْدُ الْحَمِيدِ بْنُ جَعْفَرٍ، حَدَّثَنَا عِمْرَانُ بْنُ أَبِي أَنَسٍ، عَنْ عُمَرَ بْنِ الْحَكَمِ، عَنْ أَبِي

هُرَيْرَةَ، عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، بِمِثْلِهِ.

Text Explanation

The hadiths mention that a woman is created from a rib. This supports what some Fiqh scholars say that Eve was created from Adam's rib. God says in the Qur'an: 'He created you all from a single soul, and from it created its mate'. (4: 1) The Prophet explains that women were originally created from a rib.

These hadiths urge kind treatment of women and to be patient with them, tolerating any waywardness that they may show. They emphasize that they must not be divorced without clear and valid reason. Men are told that they must not expect total consistency from their women, but God knows best.

Hadith No. 3205 quotes the Prophet: 'Whoever believes in God and the Last Day, let him, if he witnesses something, say what is good or remain silent. Take good care of women'. Again, the Prophet urges gentle and kind treatment of women. It also makes clear that one should always say what is good. Speech that is of no or little use need not be said, as a precaution against being dragged into saying what is reprehensible or even forbidden.

Hadith No. 3206 says: 'Let no believing man hate a believing woman. If he dislikes one of her traits, he may be pleased with another'. *Qadi ʿ*Iyāḍ said: 'This is not an order, but a statement of fact meaning that a believing man does not hate a believing woman. Its significance is that total hate does not occur. It should be noted that men's hate of women is different from women's hate of men'. Hence, the Prophet said: 'If he dislikes one of her traits, he may be pleased with another'.

This is what *Qadi ʿ*Iyāḍ said, but it is weak or rather wrong. The hadith does not give a statement but provides an order of prohibition. It means that a man should not hate his wife because he is bound to find in her some gratifying trait or quality. For example, she may be ill-mannered, but she may also be devout, pretty, compassionate, etc. That the hadith states a

prohibition is supported by the grammatical structure and the fact that life shows that the opposite occurs. Hence, the need for the order.

i. Related by al-Tirmidhī, 1188.
ii. Related by al-Bukhari, 3331.

CHAPTER 19

THE ORIGIN OF FALSE TRAIT

[3207–62]. (Dar al-Salam 3471) Ḥārūn ibn Maʿrūf narrated: ʿAbdullāh ibn Wahb narrated: ʿAmr ibn al-Ḥārith reported to me; that Abu Yūnus, Abu Hurayrah's *mawlā* narrated to him; from Abu Hurayrah; from God's Messenger (peace be upon him). He said: **'Had it not been for Eve, no woman would have been untrue to her husband for the rest of time'.**

حَدَّثَنَا هَارُونُ بْنُ مَعْرُوفٍ، حَدَّثَنَا عَبْدُ اللهِ بْنُ وَهْبٍ، أَخْبَرَنِي عَمْرُو بْنُ الْحَارِثِ، أَنَّ أَبَا يُونُسَ مَوْلَى أَبِي هُرَيْرَةَ حَدَّثَهُ، عَنْ أَبِي هُرَيْرَةَ، عَنْ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: «لَوْلاَ حَوَّاءُ لَمْ تَخُنْ أُنْثَى زَوْجَهَا الدَّهْرَ».

[3208–63]. (Dar al-Salam 3472) Muhammad ibn Rāfiʿ narrated:[i] ʿAbd al-Razzāq narrated; Maʿmar reported; from Hammām ibn Munabbih; he said: this is what Abu Hurayrah narrated to us from God's Messenger (peace be upon him). He mentioned a number of hadiths including: **'And God's Messenger (peace be upon him) said: "Had it not been for the Children of Israel, food would not have rotted, and meat would not have gone bad. Had it not been for Eve, no woman would have been untrue to her husband for the rest of time".'**

وَحَدَّثَنَا مُحَمَّدُ بْنُ رَافِعٍ، حَدَّثَنَا عَبْدُ الرَّزَّاقِ، أَخْبَرَنَا مَعْمَرٌ، عَنْ هَمَّامِ بْنِ مُنَبِّهٍ قَالَ: هَذَا مَا حَدَّثَنَا أَبُو هُرَيْرَةَ، عَنْ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، فَذَكَرَ أَحَادِيثَ مِنْهَا: وَقَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «لَوْلاَ بَنُو إِسْرَائِيلَ لَمْ يَخْبُثِ الطَّعَامُ، وَلَمْ يَخْنَزِ اللَّحْمُ. وَلَوْلاَ حَوَّاءُ لَمْ تَخُنْ أُنْثَى زَوْجَهَا الدَّهْرَ».

Text Explanation

In Arabic, Eve is called Ḥawwā’, a name derived from a root meaning ‘life’. She is given this name because she is the mother of every living person. It is said that she gave Adam forty children in twenty pregnancies. Each pregnancy gave them a son and a daughter.

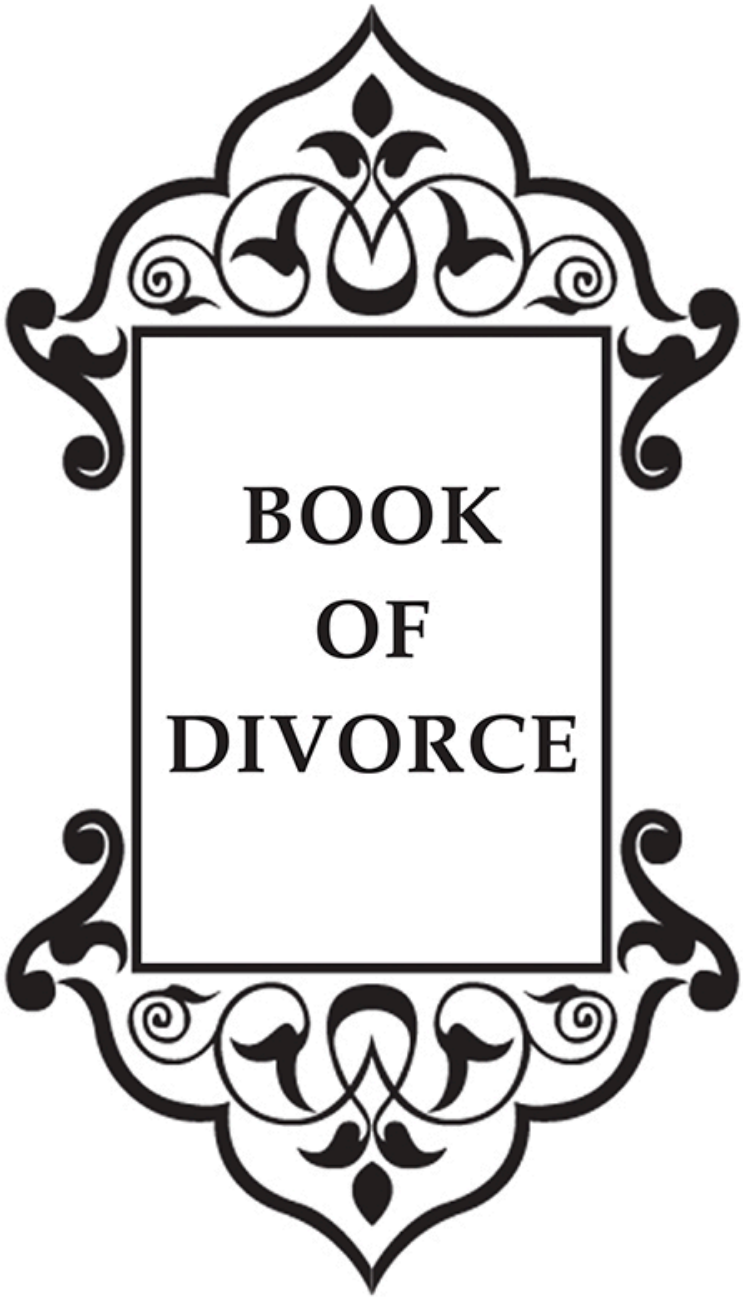
Scholars differ about the time she was created from Adam’s rib. Some said it was before entering Heaven, and they entered together. Others said that she was created in Heaven.[ii]

Qadi ʿIyāḍ said that the hadith means that she is the mother of all women, and hence they are like her. They inherit her trait demonstrated in the story of the tree and Satan when he persuaded her to eat of that tree. She told Adam about the tree, and he also ate of it.

In hadith No. 3208, the Prophet says: ‘Had it not been for the Children of Israel, food would not have rotted, and meat would not have gone bad’. Scholars have said that this means that when God gave the Children of Israel manna and quails to eat, they were prohibited from storing them. Nevertheless, they did store them and so they rotted. This process has continued ever since, but God knows best.

i. Related by al-Bukhari, 3399.

ii. The Qur’an mentions the creation of Adam and God’s order to the angels to prostrate themselves before him. God then tells Adam to dwell with his wife in Heaven. This is described in verses 30-39 of Surah 2.


BOOK
OF
DIVORCE

CHAPTER 1

THE PROHIBITION OF DIVORCE DURING MENSTRUATION

[3209–1]. (Dar al-Salam 3473) Yaḥyā ibn Yaḥyā al-Tamīmī narrated:[i] he said: I read out to Mālik ibn Anas; from Nāfiʿ; from Ibn ʿUmar; that **‘he divorced his wife when she was in her menstruation period, during the Prophet’s lifetime. ʿUmar ibn al-Khaṭṭāb asked God’s Messenger (peace be upon him) about that. God’s Messenger said to him: “Order him to take her back, then to leave her until she is cleansed [from menses], then goes through another menstruation period, and is then cleansed, then he may keep her after that or divorce her before touching her. This is the start of the waiting period at which God, Mighty and Exalted, ordered that women may be divorced”.’**

حَدَّثَنَا يَحْيَى بْنُ يَحْيَى التَّمِيمِيُّ، قَالَ قَرَأْتُ عَلَى مَالِكِ بْنِ أَنَسٍ، عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ، أَنَّهُ طَلَّقَ امْرَأَتَهُ وَهْىَ حَائِضٌ فِي عَهْدِ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ. فَسَأَلَ عُمَرُ بْنُ الْخَطَّابِ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ عَنْ ذَلِكَ، فَقَالَ لَهُ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «مُرْهُ فَلْيُرَاجِعْهَا، ثُمَّ لْيَتْرُكْهَا حَتَّى تَطْهُرَ، ثُمَّ تَحِيضَ ثُمَّ تَطْهُرَ. ثُمَّ إِنْ

شَاءَ أَمْسَكَ بَعْدُ، وَإِنْ شَاءَ طَلَّقَ قَبْلَ أَنْ يَمَسَّ. فَتِلْكَ الْعِدَّةُ الَّتِي أَمَرَ اللهُ عَزَّ وَجَلَّ أَنْ يُطَلَّقَ لَهَا النِّسَاءُ».

[3210–000]. (Dar al-Salam 3474) Yaḥyā ibn Yaḥyā, Qutaybah and Ibn Rumḥ narrated (Yaḥyā's text):[ii] Qutaybah said: Layth narrated and the other two said al-Layth ibn Saʿd reported; from Nāfiʿ; from ʿAbdullāh; that **'he divorced a wife of his once only when she was in her menstruation period. God's Messenger (peace be upon him) ordered him to take her back and keep her until she was cleansed, then went through another menstruation period in his home, and he was to wait until she was cleansed from menses. If he still wished to divorce her, he could do so when she was cleansed but before having intercourse with her. Such is the start of the waiting period at which God ordered that women may be divorced'.**

Ibn Rumḥ added in his narration: **'When ʿAbdullāh was asked about this, he would say to the questioner: "If you are divorcing your wife the first or second time, well, God's Messenger (peace be upon him) commanded me to do this. If you are divorcing the third time, she is no longer lawful for you until she has married another husband. Moreover, you have disobeyed God in what He has ordered you regarding divorcing your wife".'**

Muslim said: **'Al-Layth has done well in clearly saying: "once only".'**

حَدَّثَنَا يَحْيَى بْنُ يَحْيَى، وَقُتَيْبَةُ، وَابْنُ رُمْحٍ (وَاللَّفْظُ لِيَحْيَى). قَالَ قُتَيْبَةُ حَدَّثَنَا لَيْثٌ، وَقَالَ الآخَرَانِ أَخْبَرَنَا اللَّيْثُ بْنُ سَعْدٍ، عَنْ نَافِعٍ، عَنْ عَبْدِ اللهِ، أَنَّهُ طَلَّقَ امْرَأَةً لَهُ وَهْىَ حَائِضٌ، تَطْلِيقَةً وَاحِدَةً، فَأَمَرَهُ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ أَنْ يُرَاجِعَهَا، ثُمَّ يُمْسِكَهَا حَتَّى تَطْهُرَ، ثُمَّ تَحِيضَ عِنْدَهُ حَيْضَةً أُخْرَى ثُمَّ يُمْهِلَهَا حَتَّى تَطْهُرَ مِنْ حَيْضَتِهَا. فَإِنْ أَرَادَ أَنْ يُطَلِّقَهَا فَلْيُطَلِّقْهَا حِينَ تَطْهُرُ مِنْ قَبْلِ أَنْ يُجَامِعَهَا. فَتِلْكَ الْعِدَّةُ الَّتِي أَمَرَ اللهُ أَنْ يُطَلَّقَ لَهَا النِّسَاءُ .

وَزَادَ ابْنُ رُمْحٍ فِي رِوَايَتِهِ: وَكَانَ عَبْدُ اللهِ إِذَا سُئِلَ عَنْ ذَلِكَ قَالَ لأَحَدِهِمْ: أَمَّا أَنْتَ طَلَّقْتَ امْرَأَتَكَ مَرَّةً أَوْ مَرَّتَيْنِ، فَإِنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ أَمَرَنِي بِهَذَا. وَإِنْ كُنْتَ طَلَّقْتَهَا ثَلاَثًا، فَقَدْ حَرُمَتْ عَلَيْكَ حَتَّى تَنْكِحَ زَوْجًا غَيْرَكَ، وَعَصَيْتَ اللهَ فِيمَا أَمَرَكَ مِنْ طَلاَقِ امْرَأَتِكَ.

قَالَ مُسْلِمٌ جَوَّدَ اللَّيْثُ فِي قَوْلِهِ تَطْلِيقَةً وَاحِدَةً.

[3211–2]. (Dar al-Salam 3475) Muhammad ibn ʿAbdullāh ibn Numayr narrated: my father narrated; ʿUbaydullāh narrated; from Nāfiʿ; from Ibn ʿUmar. He said: **‘I divorced my wife during the Prophet’s lifetime when she was in menstruation. ʿUmar mentioned this to God’s Messenger (peace be upon him) and he said: “Order him to take her back and leave her until she is cleansed, then she has another menstruation period. When she is cleansed again, he may divorce her before having sexual intercourse with her, or he may keep her. Such is the start of the waiting period at which God ordered that women may be divorced”.’**

ʿUbaydullāh said: **‘I asked Nāfiʿ: “What was the status of that divorce? He said: “He counted it as one”.’**

حَدَّثَنَا مُحَمَّدُ بْنُ عَبْدِ اللهِ بْنِ نُمَيْرٍ، حَدَّثَنَا أَبِي، حَدَّثَنَا عُبَيْدُ اللهِ، عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ قَالَ: طَلَّقْتُ امْرَأَتِي عَلَى عَهْدِ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ وَهْيَ حَائِضٌ. فَذَكَرَ ذَلِكَ عُمَرُ لِرَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَقَالَ: «مُرْهُ فَلْيُرَاجِعْهَا، ثُمَّ لْيَدَعْهَا حَتَّى تَطْهُرَ ثُمَّ تَحِيضَ حَيْضَةً أُخْرَى، فَإِذَا طَهُرَتْ فَلْيُطَلِّقْهَا قَبْلَ أَنْ يُجَامِعَهَا، أَوْ يُمْسِكْهَا. فَإِنَّهَا الْعِدَّةُ الَّتِي أَمَرَ اللهُ أَنْ يُطَلَّقَ لَهَا النِّسَاءُ».

قَالَ عُبَيْدُ اللهِ: قُلْتُ لِنَافِعٍ: مَا صَنَعَتِ التَّطْلِيقَةُ؟ قَالَ: وَاحِدَةٌ اعْتَدَّ بِهَا.

[3212–000]. (Dar al-Salam 3476) Abu Bakr ibn Abi Shaybah and Ibn al-Muthannā narrated:[iii] they said: ʿAbdullāh ibn Idrīs narrated; from ʿUbaydullāh; with the same chain of transmission: **a similar text, but did not mention what ʿUbaydullāh said to Nāfiʿ.**

In his narration, Ibn al-Muthannā said: **‘Order him to return her’, and Abu Bakr said: ‘Order him to take her back’.**

وَحَدَّثَنَاهُ أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، وَابْنُ الْـمُثَنَّى، قَالا: حَدَّثَنَا عَبْدُ اللهِ بْنُ إِدْرِيسَ، عَنْ عُبَيْدِ اللهِ، بِهَذَا الإِسْنَادِ: نَحْوَهُ. وَلَمْ يَذْكُرْ قَوْلَ عُبَيْدِ اللهِ لِنَافِعٍ . قَالَ ابْنُ الْـمُثَنَّى فِي رِوَايَتِهِ: فَلْيَرْجِعْهَا . وَقَالَ أَبُو بَكْرٍ: فَلْيُرَاجِعْهَا.

[3213–3]. (Dar al-Salam 3477) Zuhayr ibn Ḥarb narrated to me:[iv] Ismāʿīl narrated; from Ayyūb; from Nāfiʿ; that **‘Ibn ʿUmar divorced his wife when she was in menstruation. ʿUmar asked**

the Prophet (peace be upon him) and he ordered him to return her, then keep her until she went through another menstruation period, and to keep her until she was cleansed. He would then divorce her before touching her. Such is the start of the waiting period at which God ordered that women may be divorced’.

He said: ‘When Ibn ʿUmar was asked about the case of a man divorcing his wife during her menstruation, he would say [to him]: “If you are divorcing her the first or the second time, God’s Messenger (peace be upon him) ordered me to return her and to wait for her until she has another menstruation period, and wait until she is cleansed, then to divorce her before touching her. If you are divorcing the third time, you have disobeyed your Lord with regard to what He has commanded you concerning divorcing your wife, and she is absolutely separated from you”.’

وَحَدَّثَنِي زُهَيْرُ بْنُ حَرْبٍ، حَدَّثَنَا إِسْمَاعِيلُ، عَنْ أَيُّوبَ، عَنْ نَافِعٍ، أَنَّ ابْنَ عُمَرَ طَلَّقَ امْرَأَتَهُ وَهْىَ حَائِضٌ. فَسَأَلَ عُمَرُ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَأَمَرَهُ أَنْ يَرْجِعَهَا، ثُمَّ يُمْهِلَهَا حَتَّى تَحِيضَ حَيْضَةً أُخْرَى، ثُمَّ يُمْهِلَهَا حَتَّى تَطْهُرَ. ثُمَّ يُطَلِّقَهَا قَبْلَ أَنْ يَمَسَّهَا، فَتِلْكَ الْعِدَّةُ الَّتِي أَمَرَ اللهُ أَنْ يُطَلَّقَ لَهَا النِّسَاءُ .

قَالَ: فَكَانَ ابْنُ عُمَرَ إِذَا سُئِلَ عَنِ الرَّجُلِ يُطَلِّقُ امْرَأَتَهُ وَهْىَ حَائِضٌ يَقُولُ: أَمَّا أَنْتَ طَلَّقْتَهَا وَاحِدَةً أَوِ اثْنَتَيْنِ . إِنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ أَمَرَهُ أَنْ يَرْجِعَهَا ثُمَّ يُمْهِلَهَا حَتَّى تَحِيضَ حَيْضَةً أُخْرَى ثُمَّ يُمْهِلَهَا

حَتَّى تَطْهُرَ ثُمَّ يُطَلِّقَهَا قَبْلَ أَنْ يَمَسَّهَا. وَأَمَّا أَنْتَ طَلَّقْتَهَا ثَلاَثًا، فَقَدْ عَصَيْتَ رَبَّكَ فِيمَا أَمَرَكَ بِهِ مِنْ طَلاَقِ امْرَأَتِكَ . وَبَانَتْ مِنْكَ.

[3214–4]. (Dar al-Salam 3478) ʿAbd ibn Ḥumayd narrated to me: Yaʿqūb ibn Ibrāhīm narrated to me; Muhammad (who is al-Zuhrī's nephew) narrated; from his uncle; Sālim ibn ʿAbdullāh reported; that ʿAbdullāh ibn ʿUmar said: **'I divorced my wife when she was in menstruation. ʿUmar mentioned this to the Prophet (peace be upon him) and he was displeased. He then said: "Order him to take her back until she has gone through another menstruation period in future, other than the period during which he divorced her. After that, if he still wishes to divorce her, he should divorce her when she is cleansed from menses and before having intercourse with her. Such is the divorce at the start of the waiting period, as God has commanded".'**

ʿAbdullāh had divorced her only one divorce and it was counted. ʿAbdullāh returned her as God's Messenger (peace be upon him) ordered him to do.

حَدَّثَنِي عَبْدُ بْنُ حُمَيْدٍ، أَخْبَرَنِي يَعْقُوبُ بْنُ إِبْرَاهِيمَ، حَدَّثَنَا مُحَمَّدٌ (وَهُوَ ابْنُ أَخِي الزُّهْرِيِّ)، عَنْ عَمِّهِ، أَخْبَرَنَا سَالِمُ بْنُ عَبْدِ اللهِ، أَنَّ عَبْدَ اللهِ بْنَ عُمَرَ، قَالَ طَلَّقْتُ امْرَأَتِي وَهْىَ حَائِضٌ. فَذَكَرَ ذَلِكَ عُمَرُ لِلنَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، فَتَغَيَّظَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ ثُمَّ قَالَ: «مُرْهُ فَلْيُرَاجِعْهَا حَتَّى تَحِيضَ حَيْضَةً أُخْرَى مُسْتَقْبَلَةً، سِوَى حَيْضَتِهَا الَّتِي طَلَّقَهَا فِيهَا. فَإِنْ بَدَا لَهُ أَنْ يُطَلِّقَهَا فَلْيُطَلِّقْهَا طَاهِرًا مِنْ حَيْضَتِهَا، قَبْلَ أَنْ يَمَسَّهَا. فَذَلِكَ الطَّلاَقُ لِلْعِدَّةِ كَمَا أَمَرَ اللهُ» .

وَكَانَ عَبْدُ اللهِ طَلَّقَهَا تَطْلِيقَةً وَاحِدَةً، فَحُسِبَتْ مِنْ طَلاَقِهَا. وَرَاجَعَهَا عَبْدُ اللهِ كَمَا أَمَرَهُ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ.

[3215–000]. Isḥāq ibn Manṣūr narrated:[v] Yazīd ibn ʿAbd Rabbih reported; Muhammad ibn Ḥarb narrated; al-Zubaydī narrated to me; from al-Zuhrī; with the same chain of transmission: **the same text, except that he said: Ibn ʿUmar said: ‘I took her back, and I counted the divorce I had pronounced’.**

وَحَدَّثَنِيهِ إِسْحَاقُ بْنُ مَنْصُورٍ، أَخْبَرَنَا يَزِيدُ بْنُ عَبْدِ رَبِّهِ، حَدَّثَنَا مُحَمَّدُ بْنُ حَرْبٍ، حَدَّثَنِي الزُّبَيْدِيُّ، عَنِ الزُّهْرِيِّ، بِهَذَا الإِسْنَادِ: غَيْرَ أَنَّهُ قَالَ قَالَ ابْنُ عُمَرَ: فَرَاجَعْتُهَا وَحَسَبْتُ لَهَا التَّطْلِيقَةَ الَّتِي طَلَّقْتُهَا.

[3216–5]. (Dar al-Salam 3479) Abu Bakr ibn Abi Shaybah, Zuhayr ibn Ḥarb and Ibn Numayr narrated (Abu Bakr’s text):[vi] they said: Wakīʿ narrated; from Sufyān; from Muhammad ibn ʿAbd al-Raḥmān, Ṭalḥah’s people’s *mawlā*; from Sālim; from Ibn ʿUmar that **‘he divorced his wife when she was in menstruation. ʿUmar mentioned this to the Prophet (peace be upon him) and he said: “Order him to take her back, then he can divorce her when she is clean or pregnant”.’**

وَحَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، وَزُهَيْرُ بْنُ حَرْبٍ، وَابْنُ نُمَيْرٍ (وَاللَّفْظُ لأَبِي بَكْرٍ)، قَالُوا: حَدَّثَنَا وَكِيعٌ، عَنْ سُفْيَانَ، عَنْ مُحَمَّدِ بْنِ عَبْدِ الرَّحْمَنِ، مَوْلَى آلِ طَلْحَةَ، عَنْ سَالِمٍ، عَنِ ابْنِ عُمَرَ، أَنَّهُ طَلَّقَ امْرَأَتَهُ وَهْىَ

حَائِضٌ. فَذَكَرَ ذَلِكَ عُمَرُ لِلنَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَقَالَ: «مُرْهُ فَلْيُرَاجِعْهَا، ثُمَّ لْيُطَلِّقْهَا طَاهِرًا أَوْ حَامِلاً».

[3217–6]. (Dar al-Salam 3480) Ahmad ibn ʿUthmān ibn Ḥakīm al-Awdī narrated to me: Khālid ibn Makhlad narrated; Sulaymān (who is Ibn Bilāl) narrated to me; ʿAbdullāh ibn Dīnār narrated to me; from Ibn ʿUmar; that **‘he divorced his wife when she was in menstruation. ʿUmar asked God’s Messenger (peace be upon him) about it and he said: “Order him to take her back until she is cleansed, then she goes through another menstruation period, then she is cleansed. He may then divorce or keep her”.’**

وَحَدَّثَنِي أَحْمَدُ بْنُ عُثْمَانَ بْنِ حَكِيمٍ الأَوْدِيُّ، حَدَّثَنَا خَالِدُ بْنُ مَخْلَدٍ، حَدَّثَنِي سُلَيْمَانُ (وَهُوَ ابْنُ بِلاَلٍ)، حَدَّثَنِي عَبْدُ اللهِ بْنُ دِينَارٍ، عَنِ ابْنِ عُمَرَ، أَنَّهُ طَلَّقَ امْرَأَتَهُ وَهْىَ حَائِضٌ. فَسَأَلَ عُمَرُ عَنْ ذَلِكَ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَقَالَ: «مُرْهُ فَلْيُرَاجِعْهَا حَتَّى تَطْهُرَ، ثُمَّ تَحِيضَ حَيْضَةً أُخْرَى ثُمَّ تَطْهُرَ، ثُمَّ يُطَلِّقَ بَعْدُ أَوْ يُمْسِكَ».

[3218–7]. (Dar al-Salam 3481) ʿAlī ibn Ḥujr al-Saʿdī narrated to me:[vii] Ismāʿīl ibn Ibrāhīm narrated; from Ayyūb; from Ibn Sīrīn. He said: **‘For twenty years I was told by some people whom I trust that Ibn ʿUmar divorced his wife three times when she was in menstruation, and he was ordered to take her back. I did not doubt these people, but I did not know the hadith until I met Abu Ghallāb Yūnus ibn Jubayr al-Bāhilī, who was solid in hadith, and he narrated to me that he asked Ibn ʿUmar and he narrated to him that he divorced his wife once when she was in**

menstruation, and he was ordered to take her back. I said: “Was it counted against him?” He said: “What then; suppose he was unable or weak-minded?”’

وَحَدَّثَنِي عَلِيُّ بْنُ حُجْرٍ السَّعْدِيُّ، حَدَّثَنَا إِسْمَاعِيلُ بْنُ إِبْرَاهِيمَ، عَنْ أَيُّوبَ، عَنِ ابْنِ سِيرِينَ قَالَ: مَكَثْتُ عِشْرِينَ سَنَةً يُحَدِّثُنِي مَنْ لاَ أَتَّهِمُ أَنَّ ابْنَ عُمَرَ طَلَّقَ امْرَأَتَهُ ثَلاَثًا وَهْىَ حَائِضٌ، فَأُمِرَ أَنْ يُرَاجِعَهَا. فَجَعَلْتُ لاَ أَتَّهِمُهُمْ، وَلاَ أَعْرِفُ الْحَدِيثَ. حَتَّى لَقِيتُ أَبَا غَلاَّبٍ يُونُسَ بْنَ جُبَيْرٍ الْبَاهِلِيَّ، وَكَانَ ذَا ثَبَتٍ. فَحَدَّثَنِي أَنَّهُ سَأَلَ ابْنَ عُمَرَ، فَحَدَّثَهُ أَنَّهُ طَلَّقَ امْرَأَتَهُ تَطْلِيقَةً وَهْىَ حَائِضٌ فَأُمِرَ أَنْ يَرْجِعَهَا. قَالَ: قُلْتُ أَفَحُسِبَتْ عَلَيْهِ؟ قَالَ: فَمَهْ؟ أَوَإِنْ عَجَزَ وَاسْتَحْمَقَ.

[3219–000]. (Dar al-Salam 3482) Abu al-Rabīʿ and Qutaybah narrated: both said: Ḥammād narrated; from Ayyūb; with the same chain of transmission: **a similar text, except that he said: ‘ʿUmar asked the Prophet (peace be upon him) and he ordered him’.**

وَحَدَّثَنَاهُ أَبُو الرَّبِيعِ، وَقُتَيْبَةُ قَالا: حَدَّثَنَا حَمَّادٌ، عَنْ أَيُّوبَ، بِهَذَا الإِسْنَادِ: نَحْوَهُ، غَيْرَ أَنَّهُ قَالَ: فَسَأَلَ عُمَرُ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَأَمَرَهُ.

[3220–8]. (Dar al-Salam 3483) ʿAbd al-Wārith ibn ʿAbd al-Ṣamad narrated: my father narrated; from my grandfather; from Ayyūb; with the same chain of transmission. He said in the hadith: **‘ʿUmar asked the Prophet (peace be upon him) about this, and he ordered him to take her back until he could divorce her when she was clean from menses and without having had intercourse.**

He said: “so that he divorces her at the start of her waiting period”.’

وَحَدَّثَنَا عَبْدُ الْوَارِثِ بْنُ عَبْدِ الصَّمَدِ، حَدَّثَنِي أَبِي، عَنْ جَدِّي، عَنْ أَيُّوبَ، بِهَذَا الإِسْنَادِ. وَقَالَ فِي الْحَدِيثِ: فَسَأَلَ عُمَرُ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ عَنْ ذَلِكَ، فَأَمَرَهُ أَنْ يُرَاجِعَهَا حَتَّى يُطَلِّقَهَا طَاهِرًا مِنْ غَيْرِ جِمَاعٍ. وَقَالَ: «يُطَلِّقُهَا فِي قُبُلِ عِدَّتِهَا».

[3221–9]. (Dar al-Salam 3484) Yaʿqūb ibn Ibrāhīm al-Dawraqī narrated to me; from Ibn ʿUlayyah; from Yūnus; from Muhammad ibn Sīrīn; from Yūnus ibn Jubayr. He said: **‘I asked Ibn ʿUmar about a man who divorces his wife when she is in menstruation. He said: “Do you know ʿAbdullāh ibn ʿUmar? He divorced his wife when she was in menstruation. ʿUmar went to the Prophet (peace be upon him) and asked him. He ordered him to take her back, until she was ready to start her waiting period”. I said to him: “If a man divorces his wife when she is in menstruation, does this divorce count?” He said: “What then; suppose he was unable or weak-minded?”’**

وَحَدَّثَنِي يَعْقُوبُ بْنُ إِبْرَاهِيمَ الدَّوْرَقِيُّ، عَنِ ابْنِ عُلَيَّةَ، عَنْ يُونُسَ، عَنْ مُحَمَّدِ بْنِ سِيرِينَ، عَنْ يُونُسَ بْنِ جُبَيْرٍ قَالَ: قُلْتُ لاِبْنِ عُمَرَ: رَجُلٌ طَلَّقَ امْرَأَتَهُ وَهْىَ حَائِضٌ! فَقَالَ: أَتَعْرِفُ عَبْدَ اللهِ بْنَ عُمَرَ؟ فَإِنَّهُ طَلَّقَ امْرَأَتَهُ وَهْىَ حَائِضٌ، فَأَتَى عُمَرُ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَسَأَلَهُ. فَأَمَرَهُ أَنْ يَرْجِعَهَا ثُمَّ تَسْتَقْبِلَ عِدَّتَهَا . قَالَ: فَقُلْتُ لَهُ إِذَا طَلَّقَ الرَّجُلُ امْرَأَتَهُ وَهْىَ حَائِضٌ، أَتَعْتَدُّ بِتِلْكَ التَّطْلِيقَةِ؟ فَقَالَ: فَمَهْ؟ أَوَإِنْ عَجَزَ وَاسْتَحْمَقَ.

[3222–10]. (Dar al-Salam 3485) Muhammad ibn al-Muthannā and Ibn Bashshār narrated: Ibn al-Muthannā said: Muhammad ibn Jaʿfar narrated; Shuʿbah narrated; from Qatādah; he said: I heard Yūnus ibn Jubayr say**: 'I heard Ibn ʿUmar say: "I divorced my wife when she was in menstruation. ʿUmar went to the Prophet (peace be upon him) and mentioned this to him. The Prophet (peace be upon him) said: 'Let him take her back. When she is cleansed from menses, he may divorce her if he so wishes'. I said to Ibn ʿUmar: "Have you counted that one?" He said: "What stops him? Suppose he is unable and weak-minded".'**

حَدَّثَنَا مُحَمَّدُ بْنُ الْـمُثَنَّى، وَابْنُ بَشَّارٍ. قَالَ ابْنُ الْـمُثَنَّى: حَدَّثَنَا مُحَمَّدُ بْنُ جَعْفَرٍ، حَدَّثَنَا شُعْبَةُ، عَنْ قَتَادَةَ، قَالَ: سَمِعْتُ يُونُسَ بْنَ جُبَيْرٍ قَالَ: سَمِعْتُ ابْنَ عُمَرَ يَقُولُ: طَلَّقْتُ امْرَأَتِي وَهْىَ حَائِضٌ. فَأَتَى عُمَرُ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَذَكَرَ ذَلِكَ لَهُ، فَقَالَ النَّبِيُّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: لِيُرَاجِعْهَا . فَإِذَا طَهَرَتْ فَإِنْ شَاءَ فَلْيُطَلِّقْهَا ». قَالَ فَقُلْتُ لِابْنِ عُمَرَ: أَفَاحْتَسَبْتَ بِهَا؟ قَالَ: مَا يَمْنَعُهُ؟ أَرَأَيْتَ إِنْ عَجَزَ وَاسْتَحْمَقَ.

[3223–11]. (Dar al-Salam 3486) Yaḥyā ibn Yaḥyā narrated:[vii] Khālid ibn ʿAbdullāh reported; from ʿAbd al-Malik; from Anas ibn Sīrīn. He said: **'I asked Ibn ʿUmar about his wife whom he had divorced. He said: "I divorced her when she was in menstruation, and this was mentioned to ʿUmar. He mentioned it to the Prophet (peace be upon him) and he said: 'Order him to take her back. When she is cleansed, he may divorce her in her clean period'. He said: "I took her back and then divorced her when she was clean". I said: "Did you count that divorce**

which you did when she was in the period?” He said: “Why would I not count it? Was I unable or weak-minded?”’

حَدَّثَنَا يَحْيَى بْنُ يَحْيَى، أَخْبَرَنَا خَالِدُ بْنُ عَبْدِ اللهِ، عَنْ عَبْدِ الْـمَلِكِ، عَنْ أَنَسِ بْنِ سِيرِينَ قَالَ: سَأَلْتُ ابْنَ عُمَرَ عَنِ امْرَأَتِهِ الَّتِي طَلَّقَ. فَقَالَ: طَلَّقْتُهَا وَهْىَ حَائِضٌ، فَذُكِرَ ذَلِكَ لِعُمَرَ، فَذَكَرَهُ لِلنَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَقَالَ: «مُرْهُ فَلْيُرَاجِعْهَا، فَإِذَا طَهَرَتْ فَلْيُطَلِّقْهَا لِطُهْرِهَا». قَالَ فَرَاجَعْتُهَا ثُمَّ طَلَّقْتُهَا لِطُهْرِهَا . قُلْتُ: فَاعْتَدَدْتَ بِتِلْكَ التَّطْلِيقَةِ الَّتِي طَلَّقْتَ وَهْىَ حَائِضٌ؟ قَالَ: مَا لِيَ لا أَعْتَدُّ بِهَا، وَإِنْ كُنْتُ عَجَزْتُ وَاسْتَحْمَقْتُ.

[3224–12]. (Dar al-Salam 3487) Muhammad ibn al-Muthannā and Ibn Bashshār narrated: Ibn al-Muthannā said: Muhammad ibn Jaʿfar narrated; Shuʿbah narrated; from Anas ibn Sīrīn; that he heard Ibn ʿUmar say: **‘I divorced my wife when she was in menstruation. ʿUmar went to the Prophet (peace be upon him) and told him. He said: “Order him to take her back, then when she is cleansed, he may divorce her”. I said to Ibn ʿUmar: “Did you count that divorce? He said: “Why not?”’**

حَدَّثَنَا مُحَمَّدُ بْنُ الْـمُثَنَّى، وَابْنُ بَشَّارٍ. قَالَ ابْنُ الْـمُثَنَّى: حَدَّثَنَا مُحَمَّدُ بْنُ جَعْفَرٍ، حَدَّثَنَا شُعْبَةُ، عَنْ أَنَسِ بْنِ سِيرِينَ، أَنَّهُ سَمِعَ ابْنَ عُمَرَ قَالَ: طَلَّقْتُ امْرَأَتِي وَهْىَ حَائِضٌ. فَأَتَى عُمَرُ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَأَخْبَرَهُ، فَقَالَ: «مُرْهُ فَلْيُرَاجِعْهَا، ثُمَّ إِذَا طَهَرَتْ فَلْيُطَلِّقْهَا». قُلْتُ لِابْنِ عُمَرَ: أَفَاحْتَسَبْتَ بِتِلْكَ التَّطْلِيقَةِ؟ قَالَ فَمَهْ؟

[3225–000].[ix] Yaḥyā ibn Ḥabīb narrated: Khālid ibn al-Ḥārith narrated [H]. Also, ʿAbd al-Raḥmān ibn Bishr narrated; Bahz narrated; both said: Shuʿbah narrated; with this chain of transmission: **the same text, except that in their narration: ‘Order him to return her’, and in their narration: ‘I said to him: “Do you count it? He said: “Why not?”’**

وَحَدَّثَنِيهِ يَحْيَى بْنُ حَبِيبٍ، حَدَّثَنَا خَالِدُ بْنُ الْحَارِثِ، ح. وَحَدَّثَنِيهِ عَبْدُ الرَّحْمَنِ بْنُ بِشْرٍ، حَدَّثَنَا بَهْزٌ، قَالا: حَدَّثَنَا شُعْبَةُ، بِهَذَا الإِسْنَادِ. غَيْرَ أَنَّ فِي حَدِيثِهِمَا: لِيَرْجِعْهَا ». وَفِي حَدِيثِهِمَا قَالَ: قُلْتُ لَهُ أَتَحْتَسِبُ بِهَا؟ قَالَ فَمَهْ.

[3226–13]. (Dar al-Salam 3488) Isḥāq ibn Ibrāhīm narrated:[x] ʿAbd al-Razzāq reported; Ibn Jurayj reported; Ibn Ṭāwūs reported to me; from his father; that he heard Ibn ʿUmar being asked about a man who divorced his wife in her menstruation. He said: **‘Do you know ʿAbdullāh ibn ʿUmar?’ He said: ‘Yes’. He said: ‘He divorced his wife when she was in menstruation. Therefore, ʿUmar went to the Prophet (peace be upon him) and told him what happened. He ordered him to take her back’. He said: ‘I did not hear him saying more than this’. (He meant his father.)**

وَحَدَّثَنَا إِسْحَاقُ بْنُ إِبْرَاهِيمَ، أَخْبَرَنَا عَبْدُ الرَّزَّاقِ، أَخْبَرَنَا ابْنُ جُرَيْجٍ، أَخْبَرَنِي ابْنُ طَاوُسٍ، عَنْ أَبِيهِ، أَنَّهُ سَمِعَ ابْنَ عُمَرَ يُسْأَلُ عَنْ رَجُلٍ طَلَّقَ امْرَأَتَهُ حَائِضًا، فَقَالَ: أَتَعْرِفُ عَبْدَ اللهِ بْنَ عُمَرَ؟ قَالَ نَعَمْ . قَالَ: فَإِنَّهُ

طَلَّقَ امْرَأَتَهُ حَائِضًا، فَذَهَبَ عُمَرُ إِلَى النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَأَخْبَرَهُ الْخَبَرَ. فَأَمَرَهُ أَنْ يُرَاجِعَهَا. قَالَ: لَمْ أَسْمَعْهُ يَزِيدُ عَلَى ذَلِكَ لأَبِيهِ.

[3227–14]. (Dar al-Salam 3489) Ḥārūn ibn ʿAbdullāh narrated to me:[xi] Ḥajjāj ibn Muhammad narrated; he said: Ibn Jurayj said: **‘Abu al-Zubayr reported to me that he heard ʿAbd al-Raḥmān ibn Ayman (ʿAzzah’s *mawlā*) asking Ibn ʿUmar, as Abu al-Zubayr was listening: “What do you say about a man who divorces his wife when she is in menstruation?” He said: “Ibn ʿUmar divorced his wife when she was in her menstruation, during the Prophet’s lifetime. ʿUmar asked God’s Messenger (peace be upon him) saying: ‘ʿAbdullāh ibn ʿUmar has divorced his wife as she was in her menstruation’. The Prophet said to him: ‘Let him take her back’. He took her back. And he [meaning the Prophet] said: ‘When she is cleansed, he may divorce or retain her’. Ibn ʿUmar said: ‘The Prophet recited: “Prophet! When you divorce women, divorce them with a view to their prescribed waiting period”.’”’ (65: 1)**

وَحَدَّثَنِي هَارُونُ بْنُ عَبْدِ اللهِ، حَدَّثَنَا حَجَّاجُ بْنُ مُحَمَّدٍ قَالَ: قَالَ ابْنُ جُرَيْجٍ: أَخْبَرَنِي أَبُو الزُّبَيْرِ، أَنَّهُ سَمِعَ عَبْدَ الرَّحْمَنِ بْنَ أَيْمَنَ، مَوْلَى عَزَّةَ، يَسْأَلُ ابْنَ عُمَرَ وَأَبُو الزُّبَيْرِ يَسْمَعُ ذَلِكَ: كَيْفَ تَرَى فِي رَجُلٍ طَلَّقَ امْرَأَتَهُ حَائِضًا؟ فَقَالَ: طَلَّقَ ابْنُ عُمَرَ امْرَأَتَهُ وَهْيَ حَائِضٌ عَلَى عَهْدِ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، فَسَأَلَ عُمَرُ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَقَالَ: إِنَّ عَبْدَ اللهِ بْنَ عُمَرَ طَلَّقَ امْرَأَتَهُ وَهْيَ حَائِضٌ . فَقَالَ لَهُ النَّبِيُّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «لِيُرَاجِعْهَا». فَرَدَّهَا وَقَالَ: «إِذَا

طَهَرَتْ فَلْيُطَلِّقْ أَوْ لِيُمْسِكْ ». قَالَ ابْنُ عُمَرَ: وَقَرَأَ النَّبِيُّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: يَا أَيُّهَا النَّبِيُّ إِذَا طَلَّقْتُمُ النِّسَاءَ فَطَلِّقُوهُنَّ فِي قُبُلِ عِدَّتِهِنَّ.

Ḥārūn ibn ʿAbdullāh narrated to me: Abu ʿĀṣim narrated; from Ibn Jurayj; from Abu al-Zubayr; from Ibn ʿUmar: **a similar text.**

وَحَدَّثَنِي هَارُونُ بْنُ عَبْدِ اللهِ، حَدَّثَنَا أَبُو عَاصِمٍ، عَنِ ابْنِ جُرَيْجٍ، عَنْ أَبِي الزُّبَيْرِ، عَنِ ابْنِ عُمَر: نَحْوَ هَذِهِ الْقِصَّةِ.

[3228–000]. (Dar al-Salam 3490) Muhammad ibn Rāfiʿ narrated: ʿAbd al-Razzāq narrated; Ibn Jurayj reported; Abu al-Zubayr reported to me; that he heard ʿAbd al-Raḥmān ibn Ayman (ʿUrwah's *mawlā*) asking Ibn ʿUmar while Abu al-Zubayr was listening: **the same text as Ḥajjāj's narration, but with minor additions.**

Muslim said: He is wrong to say ʿUrwah because he is ʿAzzah's *mawlā*.

وَحَدَّثَنِيهِ مُحَمَّدُ بْنُ رَافِعٍ، حَدَّثَنَا عَبْدُ الرَّزَّاقِ، أَخْبَرَنَا ابْنُ جُرَيْجٍ، أَخْبَرَنِي أَبُو الزُّبَيْرِ، أَنَّهُ سَمِعَ عَبْدَ الرَّحْمَنِ بْنَ أَيْمَنَ، مَوْلَى عُرْوَةَ يَسْأَلُ ابْنَ عُمَرَ وَأَبُو الزُّبَيْرِ يَسْمَعُ: بِمِثْلِ حَدِيثِ حَجَّاجٍ، وَفِيهِ بَعْضُ الزِّيَادَةِ.

قَالَ مُسْلِمٌ: أَخْطَأَ حَيْثُ قَالَ عُرْوَةَ، إِنَّمَا هُوَ مَوْلَى عَزَّةَ.

Text Explanation

The Muslim community is unanimous that it is forbidden to divorce a woman who is menstruating without her consent. If a man divorces his wife in such a condition, he commits a sin, and whilst his divorce is valid, he is nonetheless commanded to take his wife back, as stated in the hadith concerning Ibn ʿUmar. Some scholars of the Ẓāhirī School have taken the odd position of saying that his divorce is invalid because it is not permitted. As such, it is similar to divorcing someone who is not one's wife. The first view is the correct one.[xii] It is the view of all scholars, and they base their opinion on the Prophet's order that Ibn ʿUmar was to take his wife back. Had the divorce been invalid, there would be no taking back.

It may be argued that this is meant in the linguistic sense, which would mean going back to the original status, and not that it would count as one divorce. We respond by saying that this is wrong in two ways: (1) understanding words in their religious sense takes precedence over their linguistic sense, as is clearly established in *uṣūl al-fiqh*, or Islamic legal theory, and (2) Ibn ʿUmar clearly states in the versions of the hadith related by Muslim that he counted it as one divorce, but God knows best.

It is unanimously agreed upon that if a person divorces his wife when she is menstruating, he is told to take her back. This is recommended, not obligatory. This is the view of our Shāfiʿī School, and it is the view of al-Awzāʿī, Abu Ḥanīfah, all Kufi scholars, Ahmad, Hadith scholars who are well versed in Fiqh and others. Mālik and his disciples say that it is a duty.

A point may be raised: Ibn ʿUmar is ordered in this hadith to take his wife back, and also ordered to delay his divorce to the second period of purity from menses. So, what is the purpose of this delay? The answer provides four reasons: (1) To demonstrate that taking her back is not affected whereby such a divorce is concluded. Therefore, he has to retain her for some time during which divorce is lawful for him. This means he retains her so that the purpose of taking her back is clearly demonstrated.

This is the answer given by our scholars; (2) It is a sort of punishment for him and a sort of repentance after an act of disobedience, so as to wipe the offence away; (3) The first period of cleansing together with the period of menstruation in which he divorced his wife count as one *qur'*, [which is one third of the waiting period a divorced woman is required to observe. It is defined as a period of menstruation or a period of cleanliness from menstruation]. Therefore, if he divorces his wife during this first cleanliness, he is in the same position as one who divorces during menstruation and 4) He is ordered not to divorce her in the first period of cleanliness so that he stays for a reasonable while with his wife during which he may have intercourse with her. This may lead to reconciliation between them such that he no longer desires to divorce her, but God knows best.

The first hadith in this chapter, No. 3209, states the Prophet's ruling on the case of divorce during the woman's menstruation: 'Order him to take her back, then to leave her until she is cleansed [from menses], then goes through another menstruation period, and is then cleansed, then he may keep her after that or divorce her before touching her. This is the start of the waiting period at which God, Mighty and Exalted, ordered that women may be divorced'. The words, 'before touching her,' mean before having sexual intercourse with her. The hadith thus includes the prohibition of divorce during a period of cleanliness from menstruation in which sexual intercourse between man and wife has taken place. Our scholars say that divorce during cleanliness in which they had intercourse is forbidden until it is clear whether the wife is pregnant or not. The husband may regret having divorced his wife once he realizes that she is pregnant. When the pregnancy is clear and he wishes to divorce, his awareness of the pregnancy leaves no room for such regret. Therefore, it is not forbidden to divorce a pregnant wife. If a woman is in menstruation during pregnancy,[xiii] divorcing her is not forbidden according to the correct view of our school. This is stated by al-Shāfiʿī. The prohibition of divorce during menstruation aims to lengthen

the waiting period, while the waiting period of a pregnant woman ends when she gives birth. There can be no lengthening of her waiting period.

The Prophet then said: ‘Then he may keep her after that or divorce her’. This is clear evidence that divorce for no particular reason is not sinful. However, it is reprehensible, i.e., *makrūh*, on the basis of the well-known hadith included in Abu Dāwūd’s *Sunan* and other Hadith anthologies: ‘The permissible thing God dislikes most is divorce’. Hence, we say that the hadith mentioning Ibn ʿUmar’s case shows that it is not forbidden, whilst the hadith related by Abu Dāwūd demonstrates that it is discouraged.

Our scholars say that divorce may have one of four statuses: forbidden, reprehensible, obligatory and recommended. It cannot be permissible with equal options. It is obligatory in two situations: the first is when there is conflict between husband and wife and the judge requests two arbiters from the families of the two partners. If the two arbiters decide that the overall interest is to terminate the marriage, the divorce becomes a duty. The other case is that whereby a man leaves his wife hanging: neither keeping her as a wife nor divorcing her, and this continues for four months. If then the woman claims her right and the man refuses to divorce or to return to a normal marital status, the more correct view in our school is that the judge must enforce a single divorce.

Divorce is reprehensible if the marriage is running smoothly but the man decides to divorce for no valid reason. This is our understanding of the above-quoted hadith: ‘The permissible thing God dislikes most is divorce’. Divorce is forbidden in three situations: (1) during the woman’s menstruation with neither compensation nor consultation with one’s wife; (2) during a period of cleanliness from menses in which sexual intercourse has taken place between the partners and there is no clear indication of pregnancy; and (3) if the man has more than one wife and he divides his nights between them, then divorces one of them before her turn. Finally, divorce is recommended if the woman is of questionable morality, or if both

husband and wife or one of them fear that they cannot abide by the bounds set by God, or some similar situation, and God knows best.

Combining all three divorces in one action is not forbidden according to our school, but they are better done separately. This is the view of Ahmad and Abu Thawr. On the other hand, Mālik, al-Awzāʿī, Abu Ḥanīfah and al-Layth said that it is a deviation, i.e., *bidʿah*.

Abu Sulaymān Ḥamad ibn Muhammad al-Khaṭṭābī said that the Prophet's order 'to take her back' provides evidence that the reinstatement of the marriage does not require agreement by the woman or her guardian, or a new marriage contract, but God knows best.

The Prophet concludes his order by explaining: 'This is the start of the waiting period at which God, Mighty and Exalted, ordered that women may be divorced'. This is construed as evidence in support of the view of al-Shāfiʿī, Mālik and other scholars who say that the three *qurū'*, which constitute the waiting period of a divorced woman, mean three periods of cleanliness from menses, because the Prophet said that he may divorce her during cleanliness as this is the start of the waiting period. It is well-known that God has not ordered divorce to take place during a woman's menstruation period. Indeed, He has forbidden that. It may be said that the pronoun 'this' in 'this is the start of the waiting period' refers to menstruation. This is certainly wrong because divorce during menstruation is forbidden. The pronoun refers to the mentioned status, which is cleanliness, or to the waiting period.

Scholars of Fiqh, methodology and language unanimously agree that from a linguistic point of view, the word *qur'* [which is the singular form of *qurū'*] refers to both periods of menstruation and cleanliness. However, they differ as to what this word refers to in the Qur'anic verse that says: 'Divorced women shall wait, by themselves, for three monthly courses [i.e., *qurū'*]'. (2: 228) and at what point the waiting period is deemed completed. Mālik, al-Shāfiʿī and others said: these are the periods of cleanliness from menstruation. Abu Ḥanīfah, al-Awzāʿī and others said: these are the periods

of menstruation. This is reported from ʿUmar, ʿAlī, Ibn Masʿūd, al-Thawrī, Zufar, Isḥāq and other early scholars. It is the more correct one of two reports from Ahmad. They said that the scholars who rely on periods of cleanliness make it two and a portion of the third periods of cleanliness. The apparent meaning of the Qur'anic statement is three. Those who consider periods of menstruation require three complete periods. Therefore, they are closer to the Qur'an.

Because of this objection, Ibn Shihāb al-Zuhrī says that the *qurū'* are periods of cleanliness from menses, but the waiting period is not over until three complete such periods have passed. It is incomplete with two and a part of the third. However, all those who opt for periods of cleanliness say that the waiting period is complete with two and a portion of the third of such periods, even if the divorce takes place when only a few minutes remain of the cleanliness period. Two complete periods of cleanliness after that portion are sufficient. These scholars say that two and a portion of a third of anything are treated as a plural. God says: 'The hajj takes place in the months appointed for it'. (2: 198) It is well known that 'months' refer here to two months and a portion of the third. Likewise, he says: 'Those who hasten their departure after two days incur no sin'. (2: 204) They are in fact one day and a portion of the second.

Scholars who rely on the periods of cleanliness differ as to the time when the waiting period is considered complete. The more correct view of our Shāfiʿī School is immediately when she sees the blood discharge after the third period of cleanliness. The other view is that it is completed only after one day and night have lapsed after the commencement of bleeding. The same difference of views exists in the Mālikī School. Likewise, those who opt for three menstruation periods differ. Abu Ḥanīfah and his disciples say that the waiting period is completed when the woman has taken a bath after the third period, or when the time range for one prayer has lapsed. ʿUmar, ʿAlī, Ibn Masʿūd, al-Thawrī, Isḥāq and Abu ʿUbayd said until she has taken a bath after the third menstruation period. Al-Awzāʿī and others

said the waiting period is complete when the discharge has stopped. One report from Isḥāq says when the blood discharge has stopped, reinstatement of the marriage cannot take place, but she is not lawful to marry another person until she has taken a bath. This is a matter of precaution and avoiding the controversy, but God knows best.

Hadith No. 3210, narrated by al-Layth, mentions that Ibn ʿUmar 'divorced a wife of his once only when she was in her menstruation period'. Muslim comments at the end of the hadith: 'Al-Layth has done well in clearly saying: "once only".' This means that he has memorized the case perfectly while others did not, or ignored the number, or made a mistake considering it three divorces. The hadiths related by Muslim consistently confirm that it was one divorce.

Hadith No. 3216 quotes the Prophet (peace be upon him): 'then he can divorce her when she is clean or pregnant'. This confirms that it is permissible to divorce a woman who is certainly pregnant. This is the view of al-Shāfiʿī. Ibn al-Mundhir said that most scholars say the same, including Ṭāwūs, al-Ḥasan, Ibn Sīrīn, Rabīʿah, Ḥammād ibn Abi Sulaymān, Mālik, Ahmad, Isḥāq, Abu Thawr and Abu ʿUbayd. Ibn al-Mundhir adds: 'I say the same, and it is shared by some Mālikī scholars while some others say that it is forbidden'. Ibn al-Mundhir mentions another report saying that al-Ḥasan said that divorcing a pregnant woman is reprehensible, i.e., *makrūh*. According to al-Shāfiʿī and others, it is permissible for a husband to divorce his pregnant wife all three divorces together, in consecutive pronouncements or at different times. All this is permissible and implies no deviation or *bidʿah*. Abu Ḥanīfah and Abu Yūsuf said that the man should allow a month before he pronounces the next divorce. Mālik, Zufar and Muhammad ibn al-Ḥasan said that a husband must not divorce his pregnant wife more than once until she has given birth.

In hadith No. 3210, Ibn ʿUmar says to the person who asked him about divorce during menstruation: 'If you are divorcing your wife the first or second time, well, God's Messenger (peace be upon him) commanded me

to do this. If you are divorcing the third time, she is no longer lawful for you'. His words 'commanded me to do this' mean that the Prophet ordered him to take his wife back because he divorced her during menstruation.

In several of these hadiths the question is asked whether the divorce Ibn 'Umar expressed during his wife's menstruation was counted as one of the three a husband can state. The answer is: 'What then, are we to suppose he was unable or weak-minded?' This is a rhetorical question which means that it counts. It cannot be discounted because of any inability or lack of intelligence. *Qadi ʿ*Iyāḍ said: 'It means if he is unable to take his wife back and if he acts like one who is weak-minded?' The one who says this is Ibn ʿUmar himself, although he says it in the third person form. Yet, in hadith No. 3223 he says it in the first person: 'Why would I not count it? Was I unable or weak-minded?'

The expression, 'what then', in his answer about counting the divorce during menstruation is meant by way of emphasis. It says to the addressee, do not doubt that the divorce occurred.

The Prophet emphasizes that the divorce should take place at a time when the divorcee can start her waiting period. This indicates that the *qurū'* indicate the periods of cleanliness from menstruation. The divorce process must be initiated during a period of cleanliness so that she can start the waiting period immediately. If she is divorced during menstruation, that period cannot be counted as part of the waiting period. This is unanimously agreed upon, but God knows best.

Hadith No. 3226 concludes with the following sentence: 'He said: "I did not hear him saying more than this". (He meant his father.)' The one referred to in 'he said' is Ibn Ṭāwūs, referring to what he heard from his father Ṭāwūs. The one who said, 'he meant his father', is Ibn Jurayj, explaining the pronoun 'him' in Ibn Ṭāwūs' words, 'I did not hear him'.

i. Related by al-Bukhari, 5251; Abu Dāwūd, 2179; al-Nasā'ī, 3390.
ii. Related by al-Bukhari, 5332; Abu Dāwūd, 2180.
iii. Related by al-Nasā'ī, 3558; Ibn Mājah, 2019.
iv. Related by al-Nasā'ī in a shorter version, 3559.
v. Related by al-Nasā'ī, 3391. In Dar al-Salam's edition, this hadith is attached to the previous one.
vi. Related by Abu Dāwūd, 2181; al-Tirmidhī, 1176; al-Nasā'ī, 3397; Ibn Mājah, 2023.
vii. Related by al-Bukhari, 5258, 5333 and in a shorter version, 5252; Abu Dāwūd, 2183 and 2184; al-Tirmidhī, 1175; al-Nasā'ī, 3399 and 3400; Ibn Mājah, 2022.
viii. Related by al-Bukhari, 5253.
ix. In Dar al-Salam's edition, this hadith is attached to the previous one.
x. Related by al-Nasā'ī, 3561.
xi. Related by Abu Dāwūd, 2185; al-Nasā'ī, 3392.
xii. The question of the validity of divorce during menstruation, or during a period of cleanliness in which intercourse has taken place, and also the validity of combining all three divorces together is subject to much controversy by Fiqh scholars, particularly in recent times. The argument that such divorces are invalid is very strong, despite the fact that the majority of scholars in previous generations ruled that they were valid. As this book is meant only to render Imam al-Nawawī's commentary, presenting the counter argument is beyond the scope of this work.
xiii. It is well known that a pregnant woman does not go through the menstruation period. However, she may have a discharge which people during the author's time might have confused with menses. Hence, his statement means that a woman who is confirmed to be pregnant may be divorced if she is having a discharge similar to menses because this does not affect her waiting period, which lasts until birth.

CHAPTER 2

DIVORCE STATED THREE TIMES

[3229–15]. (Dar al-Salam 3491) Isḥāq ibn Ibrāhīm and Muhammad ibn Rāfiʿ narrated (Ibn Rāfiʿ's text):[i] ʿAbd al-Razzāq (Isḥāq said: 'reported' and Ibn Rāfiʿ said: 'narrated'); Maʿmar narrated; from Ibn Ṭāwūs; from his father; from Ibn ʿAbbās. He said: **'During the time of God's Messenger (peace be upon him), Abu Bakr and the first two years of ʿUmar's reign, three utterances of divorce counted as one divorce. ʿUmar ibn al-Kaṭṭāb said: "People are precipitating something in which they have been given respite. We better commit them to it". He imposed it on them'.**

حَدَّثَنَا إِسْحَاقُ بْنُ إِبْرَاهِيمَ، وَمُحَمَّدُ بْنُ رَافِعٍ (وَاللَّفْظُ لاِبْنِ رَافِعٍ)، (قَالَ إِسْحَاقُ أَخْبَرَنَا وَقَالَ ابْنُ رَافِعٍ حَدَّثَنَا) عَبْدُ الرَّزَّاقِ، أَخْبَرَنَا مَعْمَرٌ، عَنِ ابْنِ طَاوُسٍ، عَنْ أَبِيهِ، عَنِ ابْنِ عَبَّاسٍ، قَالَ: كَانَ الطَّلاَقُ عَلَى عَهْدِ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ وَأَبِي بَكْرٍ وَسَنَتَيْنِ مِنْ خِلاَفَةِ عُمَرَ طَلاَقُ الثَّلاَثِ وَاحِدَةً. فَقَالَ عُمَرُ بْنُ الْخَطَّابِ: إِنَّ النَّاسَ قَدِ اسْتَعْجَلُوا فِي أَمْرٍ قَدْ كَانَتْ لَهُمْ فِيهِ أَنَاةٌ، فَلَوْ أَمْضَيْنَاهُ عَلَيْهِمْ . فَأَمْضَاهُ عَلَيْهِمْ.

[3230–16]. (Dar al-Salam 3492) Isḥāq ibn Ibrāhīm narrated: Rawḥ ibn ʿUbādah reported; Ibn Jurayj reported [H]. Ibn Rāfiʿ narrated (his text); ʿAbd al-Razzāq narrated; Ibn Jurayj reported; Ibn Ṭāwūs reported to me; from his father; that Abu al-Ṣahbā' said to Ibn

ʿAbbās: **‘Do you know that three utterances of divorce counted as one divorce during the lifetime of the Prophet (peace be upon him) and Abu Bakr and for three years of ʿUmar’s reign?’ Ibn ʿAbbās said: ‘Yes’.**

حَدَّثَنَا إِسْحَاقُ بْنُ إِبْرَاهِيمَ، أَخْبَرَنَا رَوْحُ بْنُ عُبَادَةَ، أَخْبَرَنَا ابْنُ جُرَيْجٍ، ح. وَحَدَّثَنَا ابْنُ رَافِعٍ (وَاللَّفْظُ لَهُ)، حَدَّثَنَا عَبْدُ الرَّزَّاقِ، أَخْبَرَنَا ابْنُ جُرَيْجٍ، أَخْبَرَنِي ابْنُ طَاوُسٍ، عَنْ أَبِيهِ، أَنَّ أَبَا الصَّهْبَاءِ قَالَ لِابْنِ عَبَّاسٍ: أَتَعْلَمُ أَنَّمَا كَانَتِ الثَّلاَثُ تُجْعَلُ وَاحِدَةً عَلَى عَهْدِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ وَأَبِي بَكْرٍ، وَثَلاَثًا مِنْ إِمَارَةِ عُمَرَ؟ فَقَالَ ابْنُ عَبَّاسٍ: نَعَمْ.

[3231–17]. (Dar al-Salam 3493) Isḥāq ibn Ibrāhīm narrated: Sulaymān ibn Ḥarb reported; from Ḥammād ibn Zayd; from Ayyūb al-Sakhtiyānī; from Ibrāhīm ibn Maysarah; from Ṭāwūs; that **‘Abu al-Ṣahbā’ said to Ibn ʿAbbās: “Tell us of your strange matters. Is it not true that a divorce pronounced three times was treated as one divorce during the lifetime of the Prophet and Abu Bakr?” He said: “This was the case. Then during ʿUmar’s reign, people were quick to divorce, and he imposed it on them”.’**

وَحَدَّثَنَا إِسْحَاقُ بْنُ إِبْرَاهِيمَ، أَخْبَرَنَا سُلَيْمَانُ بْنُ حَرْبٍ، عَنْ حَمَّادِ بْنِ زَيْدٍ، عَنْ أَيُّوبَ السَّخْتِيَانِيِّ، عَنْ إِبْرَاهِيمَ بْنِ مَيْسَرَةَ، عَنْ طَاوُسٍ، أَنَّ أَبَا الصَّهْبَاءِ قَالَ لِابْنِ عَبَّاسٍ: هَاتِ مِنْ هَنَاتِكَ. أَلَمْ يَكُنِ الطَّلاَقُ الثَّلاَثُ عَلَى عَهْدِ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ وَأَبِي بَكْرٍ وَاحِدَةً؟ فَقَالَ: قَدْ

كَانَ ذَلِكَ. فَلَـمَّا كَانَ فِي عَهْدِ عُمَرَ تَتَايَعَ النَّاسُ فِي الطَّلاَقِ، فَأَجَازَهُ عَلَيْهِمْ.

Text Explanation

These hadiths tell us that if a person said to his wife, ‘You are divorced’, repeating it three times, it all counted as one divorce. This was the situation during the Prophet’s lifetime and Abu Bakr’s reign, as well as the early part of ʿUmar’s reign. He then imposed on people the meaning and effect of what they uttered because he felt that it became customary for men to resort to final, three-time divorce, all at once. In his *Sunan* anthology, Abu Dāwūd relates a similar hadith from Abu al-Ṣahbā’, from Ibn ʿAbbās, but his wording is: ‘When a man divorced his wife before the consummation of marriage, they considered it one divorce’. This is how this hadith reads, and it is considered as a problematic hadith.

Scholars differ concerning the case of a husband saying to his wife: ‘You are divorced, three times’. Al-Shāfiʿī, Mālik, Abu Ḥanīfah, Ahmad and the great majority of earlier and later scholars said that all three divorces occur. Ṭāwūs and some Ẓāhirī scholars said that only one divorce occurs. This is reported to be the view of al-Ḥajjāj ibn Arṭa’ah and Muhammad ibn Isḥāq. Yet the well-known view of al-Ḥajjāj ibn Arṭa’ah is that it has no effect. This is the view of Ibn Muqātil and one report from Muhammad ibn Isḥāq. These scholars base their argument on this hadith narrated by Ibn ʿAbbās and those hadiths speaking of ʿAbdullāh ibn ʿUmar. One report of his case mentions that he divorced his wife during menstruation three times, but the Prophet ordered him to take her back.

As evidence, the majority of scholars cite a verse in the surah entitled ‘Divorce’, which warns: ‘Whoever transgresses God’s bounds wrongs his own soul. You never know, after that, God may bring about some new situation’. (65: 1) They said it means that a husband who divorces his wife may regret his action and wish to retrieve the situation, but he will not be able to do so because the final divorce has occurred. Had this type of divorce been of the type that allows remarriage, no regret would have occurred. They also cite as evidence the hadith that mentions Rukānah’s

case who divorced his wife absolutely. The Prophet said to him: ‘By God, have you intended one only?’ He answered: ‘By God, I intended nothing more than one’. This is evidence confirming that had he intended three, the three would have occurred. Otherwise, his swearing would have been meaningless.

Another hadith is cited by scholars who take the other view stating that Rukānah divorced his wife three times and the Prophet made them one. This hadith is weak and narrated by unknown narrators. What is authentic here is what we mentioned earlier whereby he divorced her ‘absolutely’. Perhaps those who narrate this weak version thought that the word *albattah*, meaning ‘absolutely’, refers to three divorces and he narrated the hadith in the sense he understood, which was wrong.

The hadith concerning Ibn ʿUmar’s case confirms, in its authentic versions related by Muslim, that he divorced his wife once only. As for the hadith narrated by Ibn ʿAbbās, scholars hold different views on its meaning. The more correct view is that it means that in the early period, if a husband said to his wife: ‘You are divorced, you are divorced’, intending neither emphasis nor a new initiation, it is ruled as a single divorce because people rarely intend a new divorce. Therefore, the husband’s words are understood to be mere emphasis, and was so in the majority of cases. By ʿUmar’s time, people frequently resorted to this form where they intended a new divorce each time, in effect enforcing three divorces, as this had become readily understood in the majority of cases.

It is also said that the norm in the early period was one divorce, but it changed and people resorted to the three divorces at the same time. Therefore, ʿUmar implemented it. As such, what we have is a statement speaking of the difference in people’s habits, not about a changed ruling on the same question.

Imam al-Māzarī said:

> Some of those who are unaware of the truth claimed that there was a case, and it was abrogated. This is a gross mistake because ʿUmar did not abrogate; far be it from him to have done so. Had he attempted such, the Prophet's Companions would certainly have opposed him. If it is meant that the abrogation took place during the Prophet's lifetime, this is a possibility, but it then disagrees with the apparent meaning of the hadith. Had this been the case, it would not have been right for the narrator to say that the abrogated ruling continued to be applied during Abu Bakr's reign and the early part of ʿUmar's reign. It may also be said that the Prophet's Companions might unanimously agree upon some abrogation, and it would be accepted. In response, we say that it is accepted because their unanimity would point to an abrogating text. To suggest that they would initiate their own abrogation is absolutely wrong because it would constitute a unanimous agreement to something wrong, and they were immune to that. It may further be said that the abrogation probably appeared to them during ʿUmar's reign. We say in response that this is also untrue because it implies unanimity over a wrong decision. Eminent scholars of methodology agree that the validity of unanimity does not require that a certain period of time is over, but God knows best.

The hadith we referred to as entered in Abu Dāwūd's *Sunan* saying that three divorces at the same time count as one divorce applies specifically to a woman whose marriage has not been consummated. This is also stated by some of Ibn ʿAbbās' disciples. They say that three divorces do not apply to the one whose marriage is not consummated. Her divorce is complete when the phrase, 'you are divorced' is stated once. To say 'three times' after that is meaningless. The majority of scholars say that this is wrong. The three divorces apply to her because the words 'you are divorced' mean that you are in the state of divorcee, and this applies both to once and to several times. To say 'three times' after that is to explain it. Moreover, this hadith entered by Abu Dāwūd is poor in authenticity, as it is reported by Ayyūb al-

Sakhtiyānī from some unknown people from Ṭāwūs from Ibn ʿAbbās. Therefore, it cannot be accepted as evidence, but God knows best.

i. Related by Abu Dāwūd, 2200; al-Nasā’ī, 3406.

CHAPTER 3

SELF-PROHIBITION OF ONE'S WIFE

[3232–18]. (Dar al-Salam 3494) Zuhayr ibn Ḥarb narrated:[i] Ismāʿīl ibn Ibrāhīm narrated; from Hishām (meaning al-Dastawā'ī) he said: Yaḥyā ibn Abi Kathīr wrote to me narrating from Yaʿlā ibn Ḥakīm; from Saʿīd ibn Jubayr; from Ibn ʿAbbās; that he used to say: **'As for the case of self-prohibition, it is just an oath requiring indemnity'. Ibn ʿAbbās added: 'In God's Messenger you have a good model'. (33: 21)**

وَحَدَّثَنَا زُهَيْرُ بْنُ حَرْبٍ، حَدَّثَنَا إِسْمَاعِيلُ بْنُ إِبْرَاهِيمَ، عَنْ هِشَامٍ (يَعْنِي الدَّسْتَوَائِيَّ) قَالَ: كَتَبَ إِلَيَّ يَحْيَى بْنُ أَبِي كَثِيرٍ، يُحَدِّثُ عَنْ يَعْلَى بْنِ حَكِيمٍ، عَنْ سَعِيدِ بْنِ جُبَيْرٍ، عَنِ ابْنِ عَبَّاسٍ أَنَّهُ كَانَ يَقُولُ فِي الْحَرَامِ: يَمِينٌ يُكَفِّرُهَا . وَقَالَ ابْنُ عَبَّاسٍ «لَقَدْ كَانَ لَكُمْ فِي رَسُولِ اللهِ أُسْوَةٌ حَسَنَةٌ».

[3233–19]. (Dar al-Salam 3495) Yaḥyā ibn Bishr al-Ḥarīrī narrated: Muʿāwiyah (meaning Ibn Sallām) narrated; from Yaḥyā ibn Abi Kathīr; that Yaʿlā ibn Ḥakīm reported to him; that Saʿīd ibn Jubayr mentioned that he heard Ibn ʿAbbās say: **'If a man prohibits himself [from approaching] his wife, it is merely an oath he needs to atone for'. He added: 'In God's Messenger you have a good model'.**

حَدَّثَنَا يَحْيَى بْنُ بِشْرٍ الْحَرِيرِيُّ، حَدَّثَنَا مُعَاوِيَةُ (يَعْنِي ابْنَ سَلاَّمٍ)، عَنْ يَحْيَى بْنِ أَبِي كَثِيرٍ، أَنَّ يَعْلَى بْنَ حَكِيمٍ أَخْبَرَهُ، أَنَّ سَعِيدَ بْنَ جُبَيْرٍ أَخْبَرَهُ، أَنَّهُ، سَمِعَ ابْنَ عَبَّاسٍ قَالَ: إِذَا حَرَّمَ الرَّجُلُ عَلَيْهِ امْرَأَتَهُ، فَهْيَ يَمِينٌ يُكَفِّرُهَا. وَقَالَ: «لَقَدْ كَانَ لَكُمْ فِي رَسُولِ اللهِ أُسْوَةٌ حَسَنَةٌ».

[3234–20]. (Dar al-Salam 3496) Muhammad ibn Ḥātim narrated to me:[ii] Ḥajjāj ibn Muhammad narrated; Ibn Jurayj reported; ʿAṭā’ reported to me; that he heard ʿUbayd ibn ʿUmayr narrating; that he heard ʿĀ’ishah narrating that **‘the Prophet (peace be upon him) used to stop at Zaynab bint Jaḥsh where he would have a drink of honey’. She said: ‘I agreed with Ḥafṣah that if the Prophet entered the apartment of either of us, she would say to him: “You have the smell of *maghāfīr*. Have you eaten *maghāfīr*?” The Prophet stopped at one of them and she said that to him. He said: “I only had a drink of honey at Zaynab bint Jaḥsh, and I shall not have it again”. Then it was revealed to him: “Prophet, why do you prohibit yourself something that God has made lawful to you”, (66: 1) up to “Would that you two turn to God in repentance, for your hearts have swerved”, (66: 4) including “The Prophet told something in confidence to one of his wives”. (66:3) (As he said to them: I only had a drink of honey.)**

وَحَدَّثَنِي مُحَمَّدُ بْنُ حَاتِمٍ، حَدَّثَنَا حَجَّاجُ بْنُ مُحَمَّدٍ، أَخْبَرَنَا ابْنُ جُرَيْجٍ، أَخْبَرَنِي عَطَاءٌ، أَنَّهُ سَمِعَ عُبَيْدَ بْنَ عُمَيْرٍ يُخْبِرُ، أَنَّهُ سَمِعَ عَائِشَةَ تُخْبِرُ أَنَّ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ كَانَ يَمْكُثُ عِنْدَ زَيْنَبَ بِنْتِ جَحْشٍ،

فَيَشْرَبُ عِنْدَهَا عَسَلاً. قَالَتْ: فَتَوَاطَأْتُ أَنَا وَحَفْصَةُ، أَنَّ أَيَّتَنَا مَا دَخَلَ عَلَيْهَا النَّبِيُّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَلْتَقُلْ: إِنِّي أَجِدُ مِنْكَ رِيحَ مَغَافِيرَ. أَكَلْتَ مَغَافِيرَ؟ فَدَخَلَ عَلَى إِحْدَاهُمَا، فَقَالَتْ ذَلِكَ لَهُ . فَقَالَ: «بَلْ شَرِبْتُ عَسَلاً عِنْدَ زَيْنَبَ بِنْتِ جَحْشٍ، وَلَنْ أَعُودَ لَهُ». فَنَزَلَ: «لِمَ تُحَرِّمُ مَا أَحَلَّ اللهُ لَكَ»؟ إِلَى قَوْلِهِ: «إِنْ تَتُوبَا»، لِعَائِشَةَ وَحَفْصَةَ. «وَإِذْ أَسَرَّ النَّبِيُّ إِلَى بَعْضِ أَزْوَاجِهِ حَدِيثًا» لِقَوْلِهِ: «بَلْ شَرِبْتُ عَسَلاً».

[3235–21]. (Dar al-Salam 3497) Abu Kurayb Muhammad ibn al-ʿAlā’ and Ḥārūn ibn ʿAbdullāh narrated:[iii] both said: Abu Usāmah narrated; from Hishām; from his father; from ʿĀ’ishah. She said: **‘God’s Messenger (peace be upon him) used to like sweet things and honey. After he prayed ʿAṣr, he would go round to his wives, and he would get near them. He entered Ḥafṣah’s place and stayed with her longer than he used to stay. I asked about that and I was told that a woman from her own people sent her a pot of honey as a gift and she gave God’s Messenger a drink of it. I thought, by God, we shall do a trick. I mentioned it to Sawdah and said: “When he enters your place, he will get near you. You say to him then: ‘Messenger of God, have you eaten *maghāfīr*?’ He will say: ‘No’. Then say to him: ‘What is this smell, then?’ (God’s Messenger hated that he might have a bad smell.) He will say to you that Ḥafṣah gave him a drink of honey. Say to him: ‘Its bees must have fed on ʿ*urfuṭ*’. I will say the same to him. You, Ṣafiyyah say the same”.**

Then the Prophet entered Sawdah’s home. Sawdah said: “By the One other than whom there is no God, I was about to say to him what you told me when he was still at the door

because of my fear of you”. When God’s Messenger came near Sawdah, she said to him: “Messenger of God, have you eaten *maghāfīr*?” He said: “No”. She said: “What is this smell, then?” He said: “Ḥafṣah gave me a drink of honey”. She said: “Its bees must have fed on ʿ*urfuṭ*”.’ ʿĀ’ishah said: ‘When he came into my place, I said the same. He then went to Ṣafiyyah and she said the same. When he later went to Ḥafṣah, she said: “Messenger of God, shall I give you this drink”. He said: “I have no need”.’

She [i.e., ʿĀ’ishah] said: ‘Sawdah was saying: “All glory be to God. We have certainly deprived him”. I said to her: “Be quiet”.’

حَدَّثَنَا أَبُو كُرَيْبٍ مُحَمَّدُ بْنُ الْعَلاَءِ، وَهَارُونُ بْنُ عَبْدِ اللهِ قَالا: حَدَّثَنَا أَبُو أُسَامَةَ، عَنْ هِشَامٍ، عَنْ أَبِيهِ، عَنْ عَائِشَةَ قَالَتْ: كَانَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ يُحِبُّ الْحَلْوَاءَ وَالْعَسَلَ. فَكَانَ إِذَا صَلَّى الْعَصْرَ، دَارَ عَلَى نِسَائِهِ، فَيَدْنُو مِنْهُنَّ. فَدَخَلَ عَلَى حَفْصَةَ فَاحْتَبَسَ عِنْدَهَا أَكْثَرَ مِمَّا كَانَ يَحْتَبِسُ. فَسَأَلْتُ عَنْ ذَلِكَ، فَقِيلَ لِي: أَهْدَتْ لَهَا امْرَأَةٌ مِنْ قَوْمِهَا عُكَّةً مِنْ عَسَلٍ، فَسَقَتْ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ مِنْهُ شَرْبَةً. فَقُلْتُ: أَمَا وَاللهِ لَنَحْتَالَنَّ لَهُ . فَذَكَرْتُ ذَلِكَ لِسَوْدَةَ، وَقُلْتُ إِذَا دَخَلَ عَلَيْكِ فَإِنَّهُ سَيَدْنُو مِنْكِ، فَقُولِي لَهُ: يَا رَسُولَ اللهِ أَكَلْتَ مَغَافِيرَ؟ فَإِنَّهُ سَيَقُولُ لَكِ لا . فَقُولِي لَهُ: مَا هَذِهِ الرِّيحُ؟ (وَكَانَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ يَشْتَدُّ عَلَيْهِ أَنْ يُوجَدَ مِنْهُ الرِّيحُ). فَإِنَّهُ سَيَقُولُ لَكِ: سَقَتْنِي حَفْصَةُ شَرْبَةَ عَسَلٍ. فَقُولِي لَهُ: جَرَسَتْ نَحْلُهُ الْعُرْفُطَ، وَسَأَقُولُ ذَلِكَ لَهُ. وَقُولِيهِ أَنْتِ يَا صَفِيَّةُ.

فَلَـمَّا دَخَلَ عَلَى سَوْدَةَ قَالَتْ: تَقُولُ سَوْدَةُ وَالَّذِي لاَ إِلَهَ إِلاَّ هُوَ، لَقَدْ كِدْتُ أَنْ أُبَادِئَهُ بِالَّذِي قُلْتِ لِي وَإِنَّهُ لَعَلَى الْبَابِ، فَرَقًا مِنْكِ. فَلَـمَّا دَنَا رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَتْ: يَا رَسُولَ اللهِ أَكَلْتَ مَغَافِيرَ؟ قَالَ «لا» . قَالَتْ فَمَا هَذِهِ الرِّيحُ؟ قَالَ: «سَقَتْنِي حَفْصَةُ شَرْبَةَ عَسَلٍ». قَالَتْ جَرَسَتْ نَحْلُهُ الْعُرْفُطَ. فَلَـمَّا دَخَلَ عَلَيَّ قُلْتُ لَهُ مِثْلَ ذَلِكَ. ثُمَّ دَخَلَ عَلَى صَفِيَّةَ، فَقَالَتْ بِمِثْلِ ذَلِكَ. فَلَـمَّا دَخَلَ عَلَى حَفْصَةَ قَالَتْ: يَا رَسُولَ اللهِ، أَلاَ أَسْقِيكَ مِنْهُ؟ قَالَ: «لا حَاجَةَ لِي بِهِ».

قَالَتْ تَقُولُ سَوْدَةُ: سُبْحَانَ اللهِ، وَاللهِ لَقَدْ حَرَمْنَاهُ . قَالَتْ: قُلْتُ لَهَا اسْكُتِي.

Abu Isḥāq Ibrāhīm said: al-Ḥasan ibn bishr ibn al-Qāsim narrated; Abu Usāmah narrated: exactly the same text. Also, it is narrated to me by Suwayd ibn Saʿīd; ʿAlī ibn Mushir narrated; from Hishām ibn ʿUrwah; with the same chain of transmission: **the same text.**

قَالَ أَبُو إِسْحَاقَ إِبْرَاهِيمُ: حَدَّثَنَا الْحَسَنُ بْنُ بِشْرِ بْنِ الْقَاسِمِ، حَدَّثَنَا أَبُو أُسَامَةَ، بِهَذَا سَوَاءً. وَحَدَّثَنِيهِ سُوَيْدُ بْنُ سَعِيدٍ، حَدَّثَنَا عَلِيُّ بْنُ مُسْهِرٍ، عَنْ هِشَامِ بْنِ عُرْوَةَ، بِهَذَا الإِسْنَادِ: نَحْوَهُ.

Text Explanation

This chapter includes the hadith in which Ibn ʿAbbās says that if a man prohibits himself approaching his wife, it is only an oath that he needs to give indemnity for. Muslim also enters the hadith narrated by ʿĀ'ishah concerning the reason for the revelation of Surah 66, beginning with: 'Prophet, why do you prohibit yourself something that God has made lawful to you?'

Scholars differ about the case of a man saying to his wife: 'You are forbidden to me'. Al-Shāfiʿī's view is that it depends on his intention. If the husband intends it as divorce, it is enforced as such, and if his intention is *ẓihār*, it has this effect. [*Ẓihār* means treating one's wife like one of his closest relatives such as his mother or sister.] If the husband intends it as prohibiting her, with neither divorce nor *ẓihār*, he incurs by virtue of that statement the indemnity of an oath, although it is not an oath. If he intends nothing in particular, then al-Shāfiʿī gives two views, the more correct of which is that he must still give the indemnity for an oath, and the other view is that this is idle talk that gives rise to no ruling whatsoever. This is how our Shāfiʿī School considers it.

Qadi ʿIyāḍ mentions that scholars have given fourteen different views on this question:

1. It counts as three divorces, whether the marriage has been consummated or not, unless he intends less than three. This last point particularly applies when the marriage has not been consummated. This is the well-known Mālikī view. This is also the view of ʿAlī ibn Abi Ṭālib, Zayd, al-Ḥasan and al-Ḥakam.
2. It counts as three divorces in all cases. The man's intention is discounted whether the marriage has been consummated or not. This is the view of Ibn Abi Laylā and ʿAbd al-Malik ibn al-Mājishūn of the Mālikī School.

3. It counts as three divorces if the marriage has been consummated, and one divorce if it has not. This is the view of Abu Muṣʿab and Muhammad ibn ʿAbd al-Ḥakam, both of whom were Mālikīs.
4. It counts as one irrevocable divorce, whether the marriage is consummated or not. This is reported from Mālik.
5. It counts as one ordinary [i.e., revocable] divorce. This is stated by ʿAbd al-ʿAzīz ibn Maslamah of the Mālikī School.
6. It occurs as the man intends, but not less than one divorce. This is al-Zuhrī's view.
7. If the man intends it as a single or multiple divorce, or an oath, it counts as he intended. Otherwise, it is idle talk. This is the view of Sufyān al-Thawrī.
8. The same as the seventh view, except that if the husband did not intend anything in particular, he must give an indemnity for an oath. This is the view of al-Awzāʿī and Abu Thawr.
9. The view of al-Shāfiʿī which has already been explained. This is also the view of Abu Bakr, ʿUmar and other Companions of the Prophet and many of the *tābiʿīn*.
10. If the man intends a divorce, it counts as one irrevocable divorce; if he intends three divorces, it counts as three; if two, only one occurs; if he did not intend anything, it counts as an oath; if he intends it as a lie, it is idle talk. This is the view of Abu Ḥanīfah and his disciples.
11. The same as Number 10, except that if he intends two divorces, both are counted. This is Zufar's view.
12. The same indemnity is required as for *ẓihār*.[iv] This is Isḥāq ibn Rāhawayh's view.
13. This is an oath which incurs the normal indemnity of an oath. This is stated by Ibn ʿAbbās and some *tābiʿīn* scholars.
14. It is like forbidding oneself water or food. It is idle talk that incurs nothing. This is stated by Masrūq, al-Shaʿbī, Abu Salamah and Aṣbagh of the Mālikī School.

All this applies if the man is married to a free woman. If he says it to a slave, then according to al-Shāfiʿī and his school, she is set free if his intention is to free her. If he intends that she herself is prohibited to him, he is required to give the indemnity for an oath, but his words are not counted as an oath. If he has not intended anything, he is still required to give the indemnity for an oath, according to the correct view.

Mālik said: 'If such prohibition is addressed to a slave, it is idle talk that has no effect whatsoever.' *Qadi* ʿIyāḍ says that scholars generally say that the man incurs the indemnity of an oath by the very words of prohibition. Abu Ḥanīfah said that whatever the man has forbidden himself, whether a slave or food, etc. becomes forbidden to him. Nothing is required of him until he has eaten what he forbade himself. When he does, the indemnity of a broken oath becomes due. The view of Mālik, al-Shāfiʿī and the majority of scholars is that if a person says I forbid myself this food, drink, entry into this house, speaking to this person, or whatever, other than one's wife or slave, it is all idle talk that requires no indemnity. Whatever he has forbidden himself is not forbidden. If he continues with whatever it is, nothing is incurred, but God knows best.

Hadiths No. 3234 and No. 3235 mention the trick concerning the Prophet's drink of honey when some of his wives said that they could smell *maghāfīr* from him. This is a sticky stuff that grows on a tree called ʿ*urfuṭ*, and it has a sweet taste and a bad smell. The Prophet strongly disliked anyone noting a bad smell about him. When the Prophet told his wives that he only had a drink of honey, they said that it must have come from bees that fed on ʿ*urfuṭ*.

Hadith No. 3234 mentions that the Prophet tells his wives that he only had a drink of honey given to him by his other wife, Zaynab bint Jaḥsh, and that he would not have that drink again. This was the cause of the revelation of 'Prophet, why do you prohibit yourself something that God has made lawful to you?' It is clear that the verse relates to the cause of the Prophet's

abandoning honey. In books of Fiqh, it is mentioned that the cause was that the Prophet forbade himself approaching Maria.

Qadi ʿIyāḍ said: views concerning the cause of revealing this verse vary. ʿĀ'ishah said that it related to the honey, while Zayd ibn Aslam said that it related to the Prophet's prohibition of his slave, Maria, and his oath never to have intercourse with her. This provides no evidence in support of the view that such prohibition requires an indemnity, citing the verse that says: 'God has already ordained for you [believers] a way to release you from such oaths'. (66: 2) It is reported that the Prophet (peace be upon him) said: 'By God, I shall not have intercourse with her, then said: she is forbidden to me'. A similar report is stated that he swore not to drink honey and that he prohibited himself this drink. This is stated by Ibn al-Mundhir. In a hadith related by al-Bukhari, the Prophet says: 'I shall not have it again, and I swear that you must not tell anyone of this'. Al-Ṭaḥāwī said about the honey drink: 'I shall never have it again' but did not swear. However, the verse speaking of the way to release oneself from an oath means that an oath must have been stated.

My own view is that the verse may be interpreted as meaning that God has made it obligatory on you in cases of prohibition that you give the indemnity of an oath. This is how the verse is understood by al-Shāfiʿī, his disciples and scholars sharing their view.

Hadith No. 3234 mentions that the Prophet had his drink of honey at Zaynab bint Jaḥsh's place, while the next hadith, No. 3235, mentions that he had it at Ḥafṣah's apartment. *Qadi* ʿIyāḍ said:

> Muslim mentions in the hadith narrated by Ḥajjāj from Ibn Jurayj that the Prophet had the honey drink at Zaynab's, and that his two wives who supported each other against him were ʿĀ'ishah and Ḥafṣah. This is also confirmed in the hadith narrated by ʿUmar ibn al-Khaṭṭāb and Ibn ʿAbbās, stating that the collusion was by ʿĀ'ishah and Ḥafṣah. Muslim also mentions in the hadith narrated by Abu Usāmah from Hishām that the honey drink was at Ḥafṣah's and that the wives

who plotted were ʿĀ'ishah, Sawdah and Ṣafiyyah. The first report is more accurate. Al-Nasā'ī said: 'The chain of transmission of the hadith narrated by Ḥajjāj, [No. 3234], is excellent and authentic.' Al-Aṣīlī said that it is more correct and consistent with God's Book. He is referring to the verse that says: 'If you two support each other against him…'. The verse refers to two wives, not three. They are ʿĀ'ishah and Ḥafṣah as acknowledged by ʿUmar. Names have been confused by the narrator in the other hadith. Moreover, the correct thing is that the verse was revealed concerning the story of the honey drink, not the case of Maria, which is not mentioned in either of the two *Ṣaḥīḥ* anthologies. Indeed, the story of prohibiting Maria is not given in any authentic report. The correct thing is that the honey drink was consumed at Zaynab's.

In hadith No. 3235, ʿĀ'ishah says: 'God's Messenger (peace be upon him) used to like sweet things and honey'. Scholars said that 'sweet' in this context refers to every type of sweet taste. Honey is then mentioned to highlight its special and prominent status. It is a case of highlighting the particular after mentioning the general. This indicates that all tasty and delightful foods are permissible to eat. In fact, eating them on the odd occasion is not contrary to self-discipline and the avoidance of indulgence.

The hadith then mentions the Prophet's habit: 'After he prayed ʿAṣr, he would go round to his wives, and he would get near them'. This statement supports the view of our scholars that a man who divides his nights between his wives may enter the home of any of his wives for a valid reason. He may not, however, have intercourse with any of his wives other than the one whose turn it is on that day.

Transmission

At the end of hadith No. 3235, Muslim adds two more chains of transmission of this hadith, and in the first he says: ‘Abu Isḥāq Ibrāhīm said: al-Ḥasan ibn Bishr ibn al-Qāsim narrated; Abu Usāmah narrated: exactly the same text’. This means that Ibrāhīm ibn Sufyān, Muslim’s disciple, equals Muslim in the transmission of this hadith, narrating it from one person who narrates it from Abu Usāmah. Muslim also narrates it from one person who quotes Abu Usāmah. This makes Ibrāhīm’s transmission shorter by one man than if he narrated it from Muslim, but God knows best.

i. Related by al-Bukhari, 4911 and 5266; Ibn Mājah, 2073.

ii. Related by al-Bukhari, 5267, 6691 and in a shorter version, 4912; Abu Dāwūd, 3714; al-Nasā’ī, 3421 and 3804.

iii. Related by al-Bukhari in shorter versions, 5431, 5614, 5682 and 6972; Abu Dāwūd in a shorter version, 3715; al-Tirmidhī in a shorter version, 1831; Ibn Mājah, 3323.

iv. The indemnity for *ẓihār* is to set a slave free, fast two consecutive months, or feed sixty poor people. These options are taken in sequence and must be made before any intercourse takes place between man and wife.

CHAPTER 4

WHEN A HUSBAND GIVES HIS WIFE A CHOICE

[3236–22]. (Dar al-Salam 3498) Abu al-Ṭāhir narrated to me:[i] Ibn Wahb narrated [H]. Also, Ḥarmalah ibn Yaḥyā al-Tujībī narrated to me (his text); ʿAbdullāh ibn Wahb reported; Yūnus ibn Yazīd reported to me; from Ibn Shihāb; Abu Salamah ibn ʿAbd al-Raḥmān ibn ʿAwf reported to me; that ʿĀ'ishah said: **'When God's Messenger (peace be upon him) was ordered to give his wives a choice, he started with me. He said: "I shall mention something to you, and you do not have to decide before you have consulted your parents". She said: "He knew that my parents would have never told me to part with him". She said: "He then said: 'God, Mighty and Exalted, said: "Prophet! Say to your wives: 'If you desire the life of this world and its charms, I shall provide for you and release you in a becoming manner. But if you desire God and His Messenger and the life of the Hereafter, know that God has readied great rewards for those of you who do good'."' (33: 28-29) I said: "On what shall I consult my parents? I choose God, His Messenger and the life of the Hereafter". Then the other wives of God's Messenger (peace be upon him) did the same as I did'.**

وَحَدَّثَنِي أَبُو الطَّاهِرِ، حَدَّثَنَا ابْنُ وَهْبٍ، ح. وَحَدَّثَنِي حَرْمَلَةُ بْنُ يَحْيَى التُّجِيبِيُّ (وَاللَّفْظُ لَهُ)، أَخْبَرَنَا عَبْدُ اللهِ بْنُ وَهْبٍ، أَخْبَرَنِي يُونُسُ بْنُ يَزِيدَ، عَنِ ابْنِ شِهَابٍ، أَخْبَرَنِي أَبُو سَلَمَةَ بْنُ عَبْدِ الرَّحْمَنِ بْنِ عَوْفٍ، أَنَّ عَائِشَةَ قَالَتْ: لَـمَّا أُمِرَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ بِتَخْيِيرِ أَزْوَاجِهِ، بَدَأَ بِي فَقَالَ: «إِنِّي ذَاكِرٌ لَكِ أَمْرًا، فَلاَ عَلَيْكِ أَنْ لاَ تَعْجَلِي حَتَّى تَسْتَأْمِرِي أَبَوَيْكِ» . قَالَتْ: قَدْ عَلِمَ أَنَّ أَبَوَيَّ لَمْ يَكُونَا لِيَأْمُرَانِي بِفِرَاقِهِ. قَالَتْ: ثُمَّ قَالَ: «إِنَّ اللهَ عَزَّ وَجَلَّ قَالَ: يَا أَيُّهَا النَّبِيُّ قُلْ لأَزْوَاجِكَ إِنْ كُنْتُنَّ تُرِدْنَ الْحَيَاةَ الدُّنْيَا وَزِينَتَهَا فَتَعَالَيْنَ أُمَتِّعْكُنَّ وَأُسَرِّحْكُنَّ سَرَاحًا جَمِيلاً. وَإِنْ كُنْتُنَّ تُرِدْنَ اللهَ وَرَسُولَهُ وَالدَّارَ الآخِرَةَ فَإِنَّ اللهَ أَعَدَّ لِلْـمُحْسِنَاتِ مِنْكُنَّ أَجْرًا عَظِيمًا». قَالَتْ فَقُلْتُ: فِي أَيِّ هَذَا أَسْتَأْمِرُ أَبَوَيَّ؟ فَإِنِّي أُرِيدُ اللهَ وَرَسُولَهُ وَالدَّارَ الآخِرَةَ . قَالَتْ: ثُمَّ فَعَلَ أَزْوَاجُ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ مِثْلَ مَا فَعَلْتُ.

[3237–23]. (Dar al-Salam 3499) Surayj ibn Yūnus narrated:[ii] ʿAbbād ibn ʿAbbād narrated; from ʿĀṣim; from Muʿādhah al-ʿAdawiyyah; from ʿĀ’ishah. She said: **‘After the verse saying: “You may defer any of them you please and take to yourself any of them you please”, (33: 51) was revealed, God’s Messenger (peace be upon him) used to request our leave on a day of any one of us’. Muʿādhah asked her: ‘What did you say to God’s Messenger (peace be upon him) when he requested your permission?’ She said: ‘I used to say: “If it is up to me, I would never give anyone preference over myself”.’**

حَدَّثَنَا سُرَيْجُ بْنُ يُونُسَ، حَدَّثَنَا عَبَّادُ بْنُ عَبَّادٍ، عَنْ عَاصِمٍ، عَنْ مُعَاذَةَ الْعَدَوِيَّةِ، عَنْ عَائِشَةَ قَالَتْ: كَانَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ يَسْتَأْذِنُنَا، إِذَا كَانَ فِي يَوْمِ الْـمَرْأَةِ مِنَّا بَعْدَ مَا نَزَلَتْ: «تُرْجِي مَنْ تَشَاءُ مِنْهُنَّ وَتُؤْوِي إِلَيْكَ مَنْ تَشَاءُ». فَقَالَتْ لَهَا مُعَاذَةُ: فَمَا كُنْتِ تَقُولِينَ لِرَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ إِذَا اسْتَأْذَنَكِ؟ قَالَتْ كُنْتُ أَقُولُ: إِنْ كَانَ ذَاكَ إِلَيَّ لَمْ أُوثِرْ أَحَدًا عَلَى نَفْسِي.

Al-Ḥasan ibn ʿĪsā narrated: Ibn al-Mubārak reported; ʿĀṣim reported; with the same chain of transmission: **a similar text.**

وَحَدَّثَنَاهُ الْحَسَنُ بْنُ عِيسَى، أَخْبَرَنَا ابْنُ الْـمُبَارَكِ، أَخْبَرَنَا عَاصِمٌ، بِهَذَا الإِسْنَادِ: نَحْوَهُ.

[3238–24]. (Dar al-Salam 3500) Yaḥyā ibn Yaḥyā al-Tamīmī narrated[iii]: ʿAbthar reported; from Ismāʿīl ibn Abi Khālid; from al-Shaʿbī; from Masrūq. He said: **‘ʿĀ’ishah said: “God’s Messenger (peace be upon him) offered us a choice, but we did not consider it a divorce”.’**

حَدَّثَنَا يَحْيَى بْنُ يَحْيَى التَّمِيمِيُّ، أَخْبَرَنَا عَبْثَرٌ، عَنْ إِسْمَاعِيلَ بْنِ أَبِي خَالِدٍ، عَنِ الشَّعْبِيِّ، عَنْ مَسْرُوقٍ قَالَ: قَالَتْ عَائِشَةُ: قَدْ خَيَّرَنَا رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَلَمْ نَعُدَّهُ طَلاَقًا.

[3239–25]. (Dar al-Salam 3501) Abu Bakr ibn Abi Shaybah narrated: ʿAlī ibn Mushir narrated; from Ismāʿīl ibn Abi Khālid; from al-Shaʿbī; from Masrūq. He said: **‘I do not care if my wife**

chooses me after I have given her a choice once, a hundred or thousand times. I asked ʿĀ’ishah and she said: “God’s Messenger (peace be upon him) gave us a choice, was that a divorce?”’

وَحَدَّثَنَاهُ أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا عَلِيُّ بْنُ مُسْهِرٍ، عَنْ إِسْمَاعِيلَ بْنِ أَبِي خَالِدٍ، عَنِ الشَّعْبِيِّ، عَنْ مَسْرُوقٍ قَالَ: مَا أُبَالِي خَيَّرْتُ امْرَأَتِي وَاحِدَةً أَوْ مِائَةً أَوْ أَلْفًا بَعْدَ أَنْ تَخْتَارَنِي. وَلَقَدْ سَأَلْتُ عَائِشَةَ فَقَالَتْ: قَدْ خَيَّرَنَا رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، أَفَكَانَ طَلاَقًا؟

[3240–26]. (Dar al-Salam 3502) Muhammad ibn Bashshār narrated: Muhammad ibn Jaʿfar narrated; Shuʿbah narrated; from ʿĀṣim; from al-Shaʿbī; from Masrūq; from ʿĀ’ishah; that **‘God’s Messenger (peace be upon him) gave his wives a choice, and it was not considered a divorce’.**

حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ، حَدَّثَنَا مُحَمَّدُ بْنُ جَعْفَرٍ، حَدَّثَنَا شُعْبَةُ، عَنْ عَاصِمٍ، عَنِ الشَّعْبِيِّ، عَنْ مَسْرُوقٍ، عَنْ عَائِشَةَ أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ خَيَّرَ نِسَاءَهُ فَلَمْ يَكُنْ طَلاَقًا.

[3241–27]. (Dar al-Salam 3503) Isḥāq ibn Manṣūr narrated to me: ʿAbd al-Raḥmān reported; from Sufyān; from ʿĀṣim al-Aḥwal and Ismāʿīl ibn Abi Khālid; from al-Shaʿbī; from Masrūq; from ʿĀ’ishah. She said: **‘God’s Messenger (peace be upon him) gave us a choice, and we chose him. He did not count it as a divorce’.**

وَحَدَّثَنِي إِسْحَاقُ بْنُ مَنْصُورٍ، أَخْبَرَنَا عَبْدُ الرَّحْمَنِ، عَنْ سُفْيَانَ، عَنْ عَاصِمٍ الأَحْوَلِ وَإِسْمَاعِيلَ بْنِ أَبِي خَالِدٍ، عَنِ الشَّعْبِيِّ، عَنْ مَسْرُوقٍ، عَنْ عَائِشَةَ قَالَتْ: خَيَّرَنَا رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَاخْتَرْنَاهُ، فَلَمْ يَعُدَّهُ طَلاَقًا.

[3242–28]. (Dar al-Salam 3504-3505) Yaḥyā ibn Yaḥyā, Abu Bakr ibn Abi Shaybah and Abu Kurayb narrated:[iv] Abu Muʿāwiyah (Yaḥyā said: ‘reported’ and the others said: ‘narrated’); from al-Aʿmash; from Muslim; from Masrūq; from ʿĀ’ishah. She said: **‘God’s Messenger (peace be upon him) gave us a choice, and we chose him. He did not count it of any significance in regard to our status’.**

حَدَّثَنَا يَحْيَى بْنُ يَحْيَى، وَأَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، وَأَبُو كُرَيْبٍ. (قَالَ يَحْيَى أَخْبَرَنَا وَقَالَ الآخَرَانِ حَدَّثَنَا) أَبُو مُعَاوِيَةَ، عَنِ الأَعْمَشِ، عَنْ مُسْلِمٍ، عَنْ مَسْرُوقٍ، عَنْ عَائِشَةَ قَالَتْ: خَيَّرَنَا رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَاخْتَرْنَاهُ، فَلَمْ يَعْدُدْهَا عَلَيْنَا شَيْئًا

Abu al-Rabīʿ al-Zahrānī narrated to me: Ismāʿīl ibn Zakariyyā’ narrated; al-Aʿmash narrated; from Ibrāhīm; from al-Aswad; from ʿĀ’ishah. Also, from al-Aʿmash; from Muslim; from Masrūq; from ʿĀ’ishah: **the same text.**

وَحَدَّثَنِي أَبُو الرَّبِيعِ الزَّهْرَانِيُّ، حَدَّثَنَا إِسْمَاعِيلُ بْنُ زَكَرِيَّاءَ، حَدَّثَنَا الأَعْمَشُ، عَنْ إِبْرَاهِيمَ، عَنِ الأَسْوَدِ، عَنْ عَائِشَةَ، وَعَنِ الأَعْمَشِ، عَنْ مُسْلِمٍ، عَنْ مَسْرُوقٍ، عَنْ عَائِشَةَ، بِمِثْلِهِ.

[3243–29]. (Dar al-Salam 3506) Zuhayr ibn Ḥarb narrated: Rawḥ ibn ʿUbādah narrated; Zakariyyā' ibn Isḥāq narrated; Abu al-Zubayr narrated; from Jābir ibn ʿAbdullāh. He said: **'Abu Bakr came over, seeking permission to enter the Prophet's home, and he found people seated at his door. None of them was given permission to enter. However, Abu Bakr was permitted, and he went in. Then ʿUmar came over, sought permission and it was granted. He found the Prophet seated with his wives around him, but he looked gloomy, and he was silent. Abu Bakr thought: I shall say something to make the Prophet laugh. He said: "Messenger of God, I wish you had seen Bint Khārijah [his wife] when she asked me for more money. I went up to her and poked her in the neck". God's Messenger smiled and said: "They are here around me as you see, asking me for more money". Abu Bakr went up to ʿĀ'ishah to poke her in the neck and ʿUmar went up to Ḥafṣah to poke her in the neck. Both said: "You are asking God's Messenger (peace be upon him) what he does not have? They said: "By God, we never ask God's Messenger (peace be upon him) something he does not have".**

He then stayed away from them all for a month, or twenty-nine days. These verses were then revealed to him: "Prophet! Say to your wives: 'If you desire the life of this world and its charms, I shall provide for you and release you in a becoming manner. But if you desire God and His Messenger and the life of the Hereafter, know that God has readied great rewards for those of you who do good.' (33: 28-29) He started with ʿĀ'ishah and said to her: "ʿĀ'ishah, I want to tell you something and I

would like you not to be hasty, until you have consulted your parents”. She said: “What is it, Messenger of God? He read out the two verses to her. She said: “Messenger of God, would I consult my parents concerning you? I definitely choose God, His Messenger and the life of the Hereafter. And I request you not to tell any of your women what I said”. He said: “If anyone of them asks me, I shall tell her. God has not sent me to make things hard or to be hard, but he sent me to teach and make things easier for people”.’

وَحَدَّثَنَا زُهَيْرُ بْنُ حَرْبٍ، حَدَّثَنَا رَوْحُ بْنُ عُبَادَةَ، حَدَّثَنَا زَكَرِيَّاءُ بْنُ إِسْحَاقَ، حَدَّثَنَا أَبُو الزُّبَيْرِ، عَنْ جَابِرِ بْنِ عَبْدِ اللهِ قَالَ: دَخَلَ أَبُو بَكْرٍ يَسْتَأْذِنُ عَلَى رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، فَوَجَدَ النَّاسَ جُلُوسًا بِبَابِهِ، لَمْ يُؤْذَنْ لأَحَدٍ مِنْهُمْ. قَالَ: فَأُذِنَ لأَبِي بَكْرٍ فَدَخَلَ. ثُمَّ أَقْبَلَ عُمَرُ فَاسْتَأْذَنَ فَأُذِنَ لَهُ. فَوَجَدَ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ جَالِسًا، حَوْلَهُ نِسَاؤُهُ وَاجِمًا سَاكِتًا. قَالَ: فَقَالَ لأَقُولَنَّ شَيْئًا أُضْحِكُ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، فَقَالَ: يَا رَسُولَ اللهِ لَوْ رَأَيْتَ بِنْتَ خَارِجَةَ، سَأَلَتْنِي النَّفَقَةَ فَقُمْتُ إِلَيْهَا فَوَجَأْتُ عُنُقَهَا. فَضَحِكَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ وَقَالَ: «هُنَّ حَوْلِي كَمَا تَرَى، يَسْأَلْنَنِي النَّفَقَةَ». فَقَامَ أَبُو بَكْرٍ إِلَى عَائِشَةَ يَجَأُ عُنُقَهَا. فَقَامَ عُمَرُ إِلَى حَفْصَةَ يَجَأُ عُنُقَهَا. كِلاَهُمَا يَقُولُ: تَسْأَلْنَ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ مَا لَيْسَ عِنْدَهُ! فَقُلْنَ وَاللهِ لا نَسْأَلُ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ شَيْئًا أَبَدًا لَيْسَ عِنْدَهُ.

ثُمَّ اعْتَزَلَهُنَّ شَهْرًا، أَوْ تِسْعًا وَعِشْرِينَ، ثُمَّ نَزَلَتْ عَلَيْهِ هَذِهِ الآيَةُ: «يَا أَيُّهَا النَّبِيُّ قُلْ لأَزْوَاجِكَ ... حَتَّى بَلَغَ لِلْـمُحْسِنَاتِ مِنْكُنَّ أَجْرًا عَظِيمًا». قَالَ:

فَبَدَأَ بِعَائِشَةَ فَقَالَ: «يَا عَائِشَةُ، إِنِّي أَرِيدُ أَنْ أَعْرِضَ عَلَيْكَ أَمْرًا أَحِبُّ أَنْ لاَ تَعْجَلِي فِيهِ، حَتَّى تَسْتَشِيرِي أَبَوَيْكِ» . قَالَتْ: وَمَا هُوَ يَا رَسُولَ اللهِ؟ فَتَلاَ عَلَيْهَا الآيَةَ. قَالَتْ: أَفِيكَ يَا رَسُولَ اللهِ أَسْتَشِيرُ أَبَوَيَّ؟ بَلْ أَخْتَارُ اللهَ وَرَسُولَهُ وَالدَّارَ الآخِرَةَ. وَأَسْأَلُكَ أَنْ لاَ تُخْبِرَ امْرَأَةً مِنْ نِسَائِكَ بِالَّذِي قُلْتُ . قَالَ: «لا تَسْأَلُنِي امْرَأَةٌ مِنْهُنَّ إِلاَّ أَخْبَرْتُهَا. إِنَّ اللهَ لَمْ يَبْعَثْنِي مُعَنِّتًا وَلاَ مُتَعَنِّتًا، وَلَكِنْ بَعَثَنِي مُعَلِّمًا مُيَسِّرًا».

Text Explanation

The first hadith in this chapter, No. 3236, mentions that when God's Messenger was ordered to offer his wives the choice to remain with him or to be divorced, he started with ʿĀ'ishah because of her special merits. He told her not to make a hasty decision. He said this out of compassion for her and her parents. It was a sort of advice to her and her parents that it would be better for them that she stayed with him. Perhaps he feared that being young and inexperienced, she might choose to be released. If she did, he would have had to part with her. That would have been the wrong choice and a bad thing for her, her parents and the Prophet's other wives who might follow her example.

The hadith shows a special merit of ʿĀ'ishah's and also the other Mothers of the Believers. It also shows that it is important to immediately opt for what is good and attach greater importance to one's welfare in the life to come rather than this present life. The hadith further shows that one should give sincere counsel to one's friends and relatives, highlighting the importance of what is more useful in the life of the Hereafter.

In hadith No. 3237, ʿĀ'ishah says: 'If it is up to me, I would never give anyone preference over myself'. This competition for closeness to the Prophet was not for mere enjoyment, normal companionship of man and wife, or personal desire which are of importance to some people. It was rather a competition for what benefits a person in the life to come: closeness to the most noble person throughout all human generations, past and future, serving him, learning from him, attending to his needs and hoping that revelation would be given to him while he was with her, etc. This is similar to the hadith in which Ibn ʿAbbās said to the Prophet: 'I do not favour anyone with my share of you'. There are many similar examples.

ʿĀ'ishah mentions that when God's Messenger gave his wives a choice, they did not consider it a divorce. This provides evidence confirming the view of Mālik, al-Shāfiʿī, Abu Ḥanīfah, Ahmad and the great majority of

scholars that when a person gives his wife a choice between divorce and staying with him, and she chooses to stay, this does not constitute a divorce and no separation occurs. Yet, it has been reported from ʿAlī, Zayd ibn Thābit, al-Ḥasan and al-Layth ibn Saʿd that the mere offering of a choice constitutes one irrevocable divorce, whether she chooses to remain with her husband or not. Both al-Khaṭṭābī and al-Naqqāsh report that the same view was expressed by Mālik. However, *Qadi* ʿIyāḍ says that this cannot be true from Mālik. Moreover, it is a weak view, refuted by these clear hadiths. Perhaps those who expressed this view were not aware of these hadiths, but God knows best.

Hadith No. 3243 mentions that when Abu Bakr saw the Prophet looking gloomy and remaining silent, he thought of saying something to make him laugh. This is in fact desirable; when one sees a friend or relative feeling sad and worried, one should say something that changes the atmosphere and brings about some merriment. This adds to Abu Bakr's merits.

i. Related by al-Bukhari, 4785 and 4786; al-Tirmidhī, 3204; al-Nasā'ī, 3201 and 3439.
ii. Related by al-Bukhari, 4789; Abu Dāwūd, 2136.
iii. Related by al-Bukhari, 5263; al-Tirmidhī, 1179; al-Nasā'ī, 3203, 3441, 3442 and 3443.
iv. Related by al-Bukhari, 5262; Abu Dāwūd, 2203; al-Tirmidhī, 1179; al-Nasā'ī, 3202, 3444 and 3445; Ibn Mājah, 2052.

CHAPTER 5

STAYING AWAY FROM WIVES AND GIVING THEM A CHOICE

[3244–30]. (Dar al-Salam 3507) Zuhayr ibn Ḥarb narrated to me: ʿUmar ibn Yūnus al-Ḥanafī narrated; ʿIkrimah ibn ʿAmmār narrated; from Simāk Abi Zumayl; ʿAbdullāh ibn ʿAbbās narrated to me; ʿUmar ibn al-Khaṭṭāb narrated to me. He said: **‘When God’s Messenger (peace be upon him) boycotted his women, I came into the mosque and found people pressing pebbles in their hands and saying that God’s Messenger has divorced his wives. This was before the Prophet’s wives were commanded to be screened’. ʿUmar said: ‘I thought I must know this today’.**

He said: ‘I went into ʿĀ’ishah’s and said: “You, Abu Bakr’s daughter, have you gone so far as to hurt God’s Messenger (peace be upon him)?” She said: “What have you got to do with me, Ibn al-Khaṭṭāb? Attend to your own precious one”.’ He said: ‘I went into Ḥafṣah bint ʿUmar’s [apartment] and said to her: “Ḥafṣah, have you gone so far as to hurt God’s Messenger (peace be upon him)? By God, you know that God’s Messenger does not love you. Had it not been for my sake, he would have divorced you. She wept profusely”. I said to her: “Where is God’s Messenger?” She said: “He is in his store place in the high room”. I went in and found Rabāḥ, the Prophet’s servant

sitting at the doorstep of the high room, with his feet dangled on the hollow wood of the date palm the Prophet used to go up to this room and come down. I called out to him: "Rabāḥ, request God's Messenger's permission for me to come up". He looked into the room, then looked at me and said nothing. I raised my voice and said: "Rabāḥ, request God's Messenger's permission for me to come up". I think that God's Messenger may have thought that I have come on Ḥafṣah's account. "By God, if God's Messenger commands me to strike her neck, I will do it", I said that shouting. He signalled me to come up.

I went in and found God's Messenger (peace be upon him) reclining on a straw mat. I sat down, and he smoothed his lower garment, which was his only clothes. I noticed the mark of the straw mat on his side. I looked around in the Prophet's store and found a handful of barley, around one *ṣāʿ*, and a similar amount of *qaraẓ* at one side and a hanged untanned hide. I was moved to tears. He said: "What makes you weep, Ibn al-Khaṭṭāb?" I said: "Why would I not weep, Messenger of God, when I see the marks of this mat clear on your side, and this store place of yours with nothing other than what I see, while Caesar and Khosrow enjoying a life of plenty? Yet, you are God's Messenger and His chosen one, and this is all your store place?" He said: "Ibn al-Khaṭṭāb, will you not be satisfied that we have the [goodness of] the life to come and they have this present life?" I said: "Indeed".

When I went in, I could see anger on his face. I said: "Messenger of God, what is troubling you with women? If you have divorced them, God is with you and His angels, as also

Gabriel and Michael, myself, Abu Bakr and the believers are all with you". I praise God that I rarely said something without hoping that God confirms what I say. [Later] this verse, giving a choice, was revealed: "Were he to divorce you, his Lord may well give him in your stead spouses better than you" (66: 5), "But if you support each other against him, know that God is his protector, and that, therefore, Gabriel, all righteous believers and the angels will stand behind him". (66: 4) ʿĀ'ishah bint Abu Bakr and Ḥafṣah used to support each other against the rest of the Prophet's wives.

I asked: "Messenger of God, have you divorced them?" He said: "No". I said: "Messenger of God, I went into the mosque and the Muslims were pressing pebbles in their hands and saying that God's Messenger has divorced his wives. May I go down and tell them that you have not divorced them?" He said: "Yes, if you wish". I continued to talk to him until anger disappeared from his face and he smiled with his teeth visible. He had one of the most beautiful mouths. Then the Prophet went down, and I went down. I had to hold on to the date palm as I went down, while God's Messenger descended without touching it, as though he was walking on flat earth.

I said: "Messenger of God, you only stayed in this room twenty-nine days". He said: "A month may be twenty-nine days". I stopped at the door of the mosque and shouted as high as I could: "God's Messenger did not divorce his wives". This verse was revealed: 'If any matter pertaining to peace or war comes to their knowledge, they make it known to all and sundry; whereas, if they would only refer it to the Messenger

and to those from among them entrusted with authority, those of them who are engaged in obtaining intelligence would know it’. (4: 83) It was I who obtained intelligence of this matter. God also revealed the verses giving [the Prophet’s wives] the choice’.

حَدَّثَنِي زُهَيْرُ بْنُ حَرْبٍ، حَدَّثَنَا عُمَرُ بْنُ يُونُسَ الْحَنَفِيُّ، حَدَّثَنَا عِكْرِمَةُ بْنُ عَمَّارٍ، عَنْ سِمَاكٍ أَبِي زُمَيْلٍ، حَدَّثَنِي عَبْدُ اللهِ بْنُ عَبَّاسٍ، حَدَّثَنِي عُمَرُ بْنُ الْخَطَّابِ قَالَ: لَـمَّا اعْتَزَلَ نَبِيُّ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ نِسَاءَهُ - قَالَ - دَخَلْتُ الْـمَسْجِدَ، فَإِذَا النَّاسُ يَنْكُتُونَ بِالْحَصَى وَيَقُولُونَ: طَلَّقَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ نِسَاءَهُ. وَذَلِكَ قَبْلَ أَنْ يُؤْمَرْنَ بِالْحِجَابِ. فَقَالَ عُمَرُ: فَقُلْتُ لأَعْلَمَنَّ ذَلِكَ الْيَوْمَ.

قَالَ: فَدَخَلْتُ عَلَى عَائِشَةَ فَقُلْتُ يَا بِنْتَ أَبِي بَكْرٍ، أَقَدْ بَلَغَ مِنْ شَأْنِكِ أَنْ تُؤْذِي رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ؟ فَقَالَتْ مَا لِي وَمَا لَكَ يَا ابْنَ الْخَطَّابِ، عَلَيْكَ بِعَيْبَتِكَ . قَالَ: فَدَخَلْتُ عَلَى حَفْصَةَ بِنْتِ عُمَرَ، فَقُلْتُ لَهَا: يَا حَفْصَةُ، أَقَدْ بَلَغَ مِنْ شَأْنِكِ أَنْ تُؤْذِي رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ؟ وَاللهِ لَقَدْ عَلِمْتِ أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ لاَ يُحِبُّكِ . وَلَوْلاَ أَنَا لَطَلَّقَكِ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ . فَبَكَتْ أَشَدَّ الْبُكَاءِ. فَقُلْتُ لَهَا: أَيْنَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ؟ قَالَتْ: هُوَ فِي خِزَانَتِهِ فِي الْـمَشْرُبَةِ . فَدَخَلْتُ، فَإِذَا أَنَا بِرَبَاحٍ غُلاَمِ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَاعِدًا عَلَى أُسْكُفَّةِ الْـمَشْرُبَةِ، مُدَلٍّ رِجْلَيْهِ عَلَى نَقِيرٍ مِنْ خَشَبٍ. وَهُوَ جِذْعٌ يَرْقَى عَلَيْهِ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ وَيَنْحَدِرُ. فَنَادَيْتُ: يَا رَبَاحُ، اسْتَأْذِنْ لِي عِنْدَكَ عَلَى رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ . فَنَظَرَ رَبَاحٌ إِلَى الْغُرْفَةِ، ثُمَّ نَظَرَ إِلَيَّ فَلَمْ يَقُلْ

شَيْئًا. ثُمَّ قُلْتُ: يَا رَبَاحُ اسْتَأْذِنْ لِي عِنْدَكَ عَلَى رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ . فَنَظَرَ رَبَاحٌ إِلَى الْغُرْفَةِ، ثُمَّ نَظَرَ إِلَيَّ فَلَمْ يَقُلْ شَيْئًا. ثُمَّ رَفَعْتُ صَوْتِي فَقُلْتُ: يَا رَبَاحُ، اسْتَأْذِنْ لِي عِنْدَكَ عَلَى رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، فَإِنِّي أَظُنُّ أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ ظَنَّ أَنِّي جِئْتُ مِنْ أَجْلِ حَفْصَةَ. وَاللهِ لَئِنْ أَمَرَنِي رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ بِضَرْبِ عُنُقِهَا لأَضْرِبَنَّ عُنُقَهَا . وَرَفَعْتُ صَوْتِي، فَأَوْمَأَ إِلَىَّ أَنِ ارْقَهْ.

فَدَخَلْتُ عَلَى رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ وَهُوَ مُضْطَجِعٌ عَلَى حَصِيرٍ، فَجَلَسْتُ فَأَدْنَى عَلَيْهِ إِزَارَهُ، وَلَيْسَ عَلَيْهِ غَيْرُهُ. وَإِذَا الْحَصِيرُ قَدْ أَثَّرَ فِي جَنْبِهِ. فَنَظَرْتُ بِبَصَرِي فِي خِزَانَةِ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، فَإِذَا أَنَا بِقَبْضَةٍ مِنْ شَعِيرٍ نَحْوِ الصَّاعِ، وَمِثْلِهَا قَرَظًا فِي نَاحِيَةِ الْغُرْفَةِ. وَإِذَا أَفِيقٌ مُعَلَّقٌ. قَالَ: فَابْتَدَرَتْ عَيْنَايَ. قَالَ: «مَا يُبْكِيكَ يَا ابْنَ الْخَطَّابِ»؟ قُلْتُ: يَا نَبِيَّ اللهِ، وَمَا لِي لا أَبْكِي، وَهَذَا الْحَصِيرُ قَدْ أَثَّرَ فِي جَنْبِكَ، وَهَذِهِ خِزَانَتُكَ لاَ أَرَى فِيهَا إِلاَّ مَا أَرَى. وَذَاكَ قَيْصَرُ وَكِسْرَى فِي الثِّمَارِ وَالأَنْهَارِ، وَأَنْتَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ وَصَفْوَتُهُ، وَهَذِهِ خِزَانَتُكَ. فَقَالَ: «يَا ابْنَ الْخَطَّابِ، أَلاَ تَرْضَى أَنْ تَكُونَ لَنَا الآخِرَةُ وَلَهُمُ الدُّنْيَا »؟ قُلْتُ بَلَى.

قَالَ: وَدَخَلْتُ عَلَيْهِ حِينَ دَخَلْتُ وَأَنَا أَرَى فِي وَجْهِهِ الْغَضَبَ. فَقُلْتُ يَا رَسُولَ اللهِ مَا يَشُقُّ عَلَيْكَ مِنْ شَأْنِ النِّسَاءِ؟ فَإِنْ كُنْتَ طَلَّقْتَهُنَّ فَإِنَّ اللهَ مَعَكَ، وَمَلاَئِكَتَهُ وَجِبْرِيلَ وَمِيكَائِيلَ، وَأَنَا وَأَبُو بَكْرٍ وَالْـمُؤْمِنُونَ مَعَكَ. وَقَلَّمَا تَكَلَّمْتُ وَأَحْمَدُ اللهَ بِكَلاَمٍ إِلاَّ رَجَوْتُ أَنْ يَكُونَ اللهُ يُصَدِّقُ قَوْلِي الَّذِي أَقُولُ. وَنَزَلَتْ هَذِهِ الآيَةُ آيَةُ التَّخْيِيرِ: «عَسَى رَبُّهُ إِنْ طَلَّقَكُنَّ أَنْ

يُبْدِلَهُ أَزْوَاجًا خَيْرًا مِنْكُنَّ». «وَإِنْ تَظَاهَرَا عَلَيْهِ فَإِنَّ اللهَ هُوَ مَوْلاَهُ وَجِبْرِيلُ وَصَالِحُ الْـمُؤْمِنِينَ وَالْـمَلاَئِكَةُ بَعْدَ ذَلِكَ ظَهِيرٌ». وَكَانَتْ عَائِشَةُ بِنْتُ أَبِي بَكْرٍ وَحَفْصَةُ تَظَاهَرَانِ عَلَى سَائِرِ نِسَاءِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ. فَقُلْتُ: يَا رَسُولَ اللهِ أَطَلَّقْتَهُنَّ؟ قَالَ: «لا». قُلْتُ: يَا رَسُولَ اللهِ، إِنِّي دَخَلْتُ الْـمَسْجِدَ وَالْـمُسْلِمُونَ يَنْكُتُونَ بِالْحَصَى، يَقُولُونَ: طَلَّقَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ نِسَاءَهُ، أَفَأَنْزِلُ فَأُخْبِرَهُمْ أَنَّكَ لَمْ تُطَلِّقْهُنَّ. قَالَ: «نَعَمْ إِنْ شِئْتَ». فَلَمْ أَزَلْ أُحَدِّثُهُ حَتَّى تَحَسَّرَ الْغَضَبُ عَنْ وَجْهِهِ، وَحَتَّى كَشَرَ فَضَحِكَ. وَكَانَ مِنْ أَحْسَنِ النَّاسِ ثَغْرًا. ثُمَّ نَزَلَ نَبِيُّ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ وَنَزَلْتُ. فَنَزَلْتُ أَتَشَبَّثُ بِالْجِذْعِ، وَنَزَلَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ كَأَنَّمَا يَمْشِي عَلَى الأَرْضِ، مَا يَمَسُّهُ بِيَدِهِ. فَقُلْتُ: يَا رَسُولَ اللهِ، إِنَّمَا كُنْتَ فِي الْغُرْفَةِ تِسْعَةً وَعِشْرِينَ. قَالَ: «إِنَّ الشَّهْرَ يَكُونُ تِسْعًا وَعِشْرِينَ». فقُمْتُ عَلَى بَابِ الْـمَسْجِدِ، فَنَادَيْتُ بِأَعْلَى صَوْتِي: لَمْ يُطَلِّقْ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ نِسَاءَهُ . وَنَزَلَتْ هَذِهِ الآيَةُ: «وَإِذَا جَاءَهُمْ أَمْرٌ مِنَ الأَمْنِ أَوِ الْخَوْفِ أَذَاعُوا بِهِ وَلَوْ رَدُّوهُ إِلَى الرَّسُولِ وَإِلَى أُولِي الأَمْرِ مِنْهُمْ لَعَلِمَهُ الَّذِينَ يَسْتَنْبِطُونَهُ مِنْهُمْ». فَكُنْتُ أَنَا اسْتَنْبَطْتُ ذَلِكَ الأَمْرَ. وَأَنْزَلَ اللهُ عَزَّ وَجَلَّ آيَةَ التَّخْيِيرِ.

[3245–31]. (Dar al-Salam 3508) Ḥārūn ibn Saʿīd al-Aylī narrated:[i] ʿAbdullāh ibn Wahb narrated; Sulaymān (meaning Ibn Bilāl) reported to me; Yaḥyā reported to me; ʿUbayd ibn Ḥunayn reported to me; that he heard ʿAbdullāh ibn ʿAbbās narrating. He said: **‘I stayed a year hoping to ask ʿUmar ibn al-Khaṭṭāb about a certain verse, but I could not ask him, feeling in awe of him. Then he travelled for Hajj, and I travelled with him. On the**

way back, as we were at some point in the journey, he went into an area with Arak trees to relieve himself. I waited for him until he finished, then walked with him. I said: "*Amīr al-Mu'minīn*, who were the two wives of the Prophet who supported each other against him?" He said: "They were ʿĀ'ishah and Ḥafṣah". I said to him: "By God, I wanted to ask you about this for a year and I could not, feeling in awe of you". He said: "Do not do that. Whatever you think I know, ask me about it. If I know it, I will tell you".

ʿUmar said: "In pre-Islamic days we had little regard for women, but then God revealed whatever He revealed about them and gave them their due shares. Once, as I was busy considering a certain matter, my wife said to me: 'If you would do such-and-such'. I said: 'What have you to do with what I am considering? Why do you interfere with something I intend to do?' She said to me: 'How strange of you, Ibn al-Khaṭṭāb, that you do not wish to listen to an argument, when your daughter argues with God's Messenger (peace be upon him) leaving him angry all day?' ʿUmar said: "I put on my upper garment and went out, going straight to Ḥafṣah. I said: 'Daughter! Do you argue with God's Messenger leaving him angry all day?' Ḥafṣah said: 'By God, we do argue with him'. I said: 'Take this from me, daughter, that I am warning you against incurring God's punishment and His Messenger's anger. Do not be tempted by the one who is proud of her beauty and God's Messenger's love'. I left her and went straight to Umm Salamah, as she was related to me. I spoke to her. Umm Salamah said to me: 'How strange of you, Ibn al-Khaṭṭāb! You

interfere in everything, and you wish to interfere between God's Messenger and his wives!' She was so powerful that she stopped me from some of what I felt. I left her and went away.

I had an Anṣārī friend who gave me the news when I did not attend, and I gave him the news when he was absent. At the time we were worried because we were informed that a king of Ghassān was about to march and attack us. That disturbed us much. My Anṣārī friend came and knocked at the door, and said: 'Open, open'. I asked him: 'Has the Ghassānī arrived?' He said: 'Something more serious. God's Messenger has boycotted his wives'. I said: 'Confound Ḥafṣah and ʿĀ'ishah'.

I put on my garment and went out. I found God's Messenger (peace be upon him) in a high room to which one goes up on a [dry branch of] date palm. A black servant of God's Messenger was seated at the top of the steps. I said: 'This is ʿUmar'. I was given permission to go in. I related to God's Messenger what happened and when I told him what Umm Salamah said, God's Messenger smiled. He was reclining on a straw mat with nothing between it and his body. Under his head he had a leather pillow stuffed with fibre. Near his feet there was a quantity of tanning stuff called *qaraẓ*, and above his head there were some hides hanging. I saw the mark of the mat on the side of God's Messenger, and I wept. He said: 'What makes you cry?' I said: 'Messenger of God, Caesar and Khosrow are having what they have, while you are God's Messenger!' He said: 'Are you not happy that they have the comforts of this life, and you have the [happiness of the] Hereafter?'"'

حَدَّثَنَا هَارُونُ بْنُ سَعِيدٍ الأَيْلِيُّ، حَدَّثَنَا عَبْدُ اللهِ بْنُ وَهْبٍ، أَخْبَرَنِي سُلَيْمَانُ (يَعْنِي ابْنَ بِلاَلٍ)، أَخْبَرَنِي يَحْيَى، أَخْبَرَنِي عُبَيْدُ بْنُ حُنَيْنٍ، أَنَّهُ سَمِعَ عَبْدَ اللهِ بْنَ عَبَّاسٍ يُحَدِّثُ، قَالَ: مَكَثْتُ سَنَةً وَأَنَا أُرِيدُ أَنْ أَسْأَلَ عُمَرَ بْنَ الْخَطَّابِ عَنْ آيَةٍ، فَمَا أَسْتَطِيعُ أَنْ أسألَهُ هَيْبَةً له. حَتَّى خَرَجَ حَاجًّا، فَخَرَجْتُ مَعَهُ. فَلَـمَّا رَجَعَ فَكُنَّا بِبَعْضِ الطَّرِيقِ، عَدَلَ إِلَى الأَرَاكِ لِحَاجَةٍ لَهُ. فَوَقَفْتُ لَهُ حَتَّى فَرَغَ، ثُمَّ سِرْتُ مَعَهُ فَقُلْتُ: يَا أَمِيرَ الْـمُؤْمِنِينَ، مَنِ اللَّتَانِ تَظَاهَرَتَا عَلَى رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ مِنْ أَزْوَاجِهِ؟ فَقَالَ: تِلْكَ حَفْصَةُ وَعَائِشَةُ. قَالَ فَقُلْتُ لَهُ: وَاللهِ إِنْ كُنْتُ لأُرِيدُ أَنْ أَسْأَلَكَ عَنْ هَذَا مُنْذُ سَنَةٍ فَمَا أَسْتَطِيعُ هَيْبَةً لَكَ. قَالَ: فَلاَ تَفْعَلْ. مَا ظَنَنْتَ أَنَّ عِنْدِي مِنْ عِلْمٍ، فَسَلْنِي عَنْهُ فَإِنْ كُنْتُ أَعْلَمُهُ، أَخْبَرْتُكَ.

قَالَ: وَقَالَ عُمَرُ: وَاللهِ إِنْ كُنَّا فِي الْجَاهِلِيَّةِ مَا نَعُدُّ لِلنِّسَاءِ أَمْرًا، حَتَّى أَنْزَلَ اللهُ تَعَالَى فِيهِنَّ مَا أَنْزَلَ، وَقَسَمَ لَهُنَّ مَا قَسَمَ. قَالَ: فَبَيْنَمَا أَنَا فِي أَمْرٍ أَأْتَمِرُهُ، إِذْ قَالَتْ لِي امْرَأَتِي: لَوْ صَنَعْتَ كَذَا وَكَذَا. فَقُلْتُ لَهَا: وَمَا لَكِ أَنْتِ وَلِـمَا هَا هُنَا؟ وَمَا تَكَلُّفُكِ فِي أَمْرٍ أُرِيدُهُ؟ فَقَالَتْ لِي: عَجَبًا لَكَ يَا ابْنَ الْخَطَّابِ. مَا تُرِيدُ أَنْ تُرَاجَعَ أَنْتَ، وَإِنَّ ابْنَتَكَ لَتُرَاجِعُ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ حَتَّى يَظَلَّ يَوْمَهُ غَضْبَانَ . قَالَ عُمَرُ: فَآخُذُ رِدَائِي، ثُمَّ أَخْرُجُ مَكَانِي حَتَّى أَدْخُلَ عَلَى حَفْصَةَ. فَقُلْتُ لَهَا: يَا بُنَيَّةُ، إِنَّكِ لَتُرَاجِعِينَ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ حَتَّى يَظَلَّ يَوْمَهُ غَضْبَانَ؟ فَقَالَتْ حَفْصَةُ: وَاللهِ إِنَّا لَنُرَاجِعُهُ . فَقُلْتُ: تَعْلَمِينَ أَنِّي أُحَذِّرُكِ عُقُوبَةَ اللهِ، وَغَضَبَ رَسُولِهِ. يَا بُنَيَّةُ، لا يَغُرَّنَّكِ هَذِهِ الَّتِي قَدْ أَعْجَبَهَا حُسْنُهَا، وَحُبُّ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ إِيَّاهَا. ثُمَّ خَرَجْتُ حَتَّى أَدْخُلَ عَلَى أُمِّ سَلَمَةَ لِقَرَابَتِي مِنْهَا، فَكَلَّمْتُهَا، فَقَالَتْ لِي أُمُّ سَلَمَةَ: عَجَبًا لَكَ يَا

ابْنَ الْخَطَّابِ، قَدْ دَخَلْتَ فِي كُلِّ شَيْءٍ حَتَّى تَبْتَغِي أَنْ تَدْخُلَ بَيْنَ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ وَأَزْوَاجِهِ . قَالَ: فَأَخَذَتْنِي أَخْذًا كَسَرَتْنِي عَنْ بَعْضِ مَا كُنْتُ أَجِدُ، فَخَرَجْتُ مِنْ عِنْدِهَا.

وَكَانَ لِي صَاحِبٌ مِنَ الأَنْصَارِ إِذَا غِبْتُ أَتَانِي بِالْخَبَرِ، وَإِذَا غَابَ كُنْتُ أَنَا آتِيهِ بِالْخَبَرِ. وَنَحْنُ حِينَئِذٍ نَتَخَوَّفُ مَلِكًا مِنْ مُلُوكِ غَسَّانَ، ذُكِرَ لَنَا أَنَّهُ يُرِيدُ أَنْ يَسِيرَ إِلَيْنَا، فَقَدِ امْتَلأَتْ صُدُورُنَا مِنْهُ. فَأَتَى صَاحِبِي الأَنْصَارِيُّ يَدُقُّ الْبَابَ، وَقَالَ: افْتَحِ، افْتَحْ. فَقُلْتُ: جَاءَ الْغَسَّانِيُّ؟ فَقَالَ: أَشَدُّ مِنْ ذَلِكَ. اعْتَزَلَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ أَزْوَاجَهُ . فَقُلْتُ رَغِمَ أَنْفُ حَفْصَةَ وَعَائِشَةَ .

ثُمَّ آخُذُ ثَوْبِي فَأَخْرُجُ، حَتَّى جِئْتُ فَإِذَا رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فِي مَشْرُبَةٍ لَهُ يُرْتَقَى إِلَيْهَا بِعَجَلَةٍ، وَغُلاَمٌ لِرَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ أَسْوَدُ عَلَى رَأْسِ الدَّرَجَةِ. فَقُلْتُ: هَذَا عُمَرُ . فَأُذِنَ لِي . قَالَ عُمَرُ: فَقَصَصْتُ عَلَى رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ هَذَا الْحَدِيثَ. فَلَـمَّا بَلَغْتُ حَدِيثَ أُمِّ سَلَمَةَ تَبَسَّمَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، وَإِنَّهُ لَعَلَى حَصِيرٍ، مَا بَيْنَهُ وَبَيْنَهُ شَيْءٌ، وَتَحْتَ رَأْسِهِ وِسَادَةٌ مِنْ أَدَمٍ حَشْوُهَا لِيفٌ. وَإِنَّ عِنْدَ رِجْلَيْهِ قَرَظًا مَصْبُورًا، وَعِنْدَ رَأْسِهِ أُهُبًا مُعَلَّقَةً. فَرَأَيْتُ أَثَرَ الْحَصِيرِ فِي جَنْبِ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، فَبَكَيْتُ. فَقَالَ: «مَا يُبْكِيكَ»؟ فَقُلْتُ: يَا رَسُولَ اللهِ إِنَّ كِسْرَى وَقَيْصَرَ فِيمَا هُمَا فِيهِ، وَأَنْتَ رَسُولُ اللهِ. فَقَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «أَمَا تَرْضَى أَنْ تَكُونَ لَهُمَا الدُّنْيَا وَلَكَ الآخِرَةُ»؟

[3246–32]. (Dar al-Salam 3509) Muhammad ibn al-Muthannā narrated: ʿAffān narrated; Ḥammād ibn Salamah narrated; Yaḥyā ibn Saʿīd reported to me; from ʿUbayd ibn Ḥunayn; from Ibn ʿAbbās. He said: **‘I came back with ʿUmar. When we were at Marr al-Ẓahrān…’ He added the full length of the hadith in the same way as the narration by Sulaymān ibn Bilāl, except that he said: ‘What about the affair of the two women?’ He said: ‘Ḥafṣah and Umm Salamah’. He also added: ‘I went to the apartments and in everyone I heard crying’. He also added: ‘He swore to stay away from them for a month. When twenty-nine days had passed, he went down to them’.**

وَحَدَّثَنَا مُحَمَّدُ بْنُ الْـمُثَنَّى، حَدَّثَنَا عَفَّانُ، حَدَّثَنَا حَمَّادُ بْنُ سَلَمَةَ، أَخْبَرَنِي يَحْيَى بْنُ سَعِيدٍ، عَنْ عُبَيْدِ بْنِ حُنَيْنٍ، عَنِ ابْنِ عَبَّاس قَالَ: أَقْبَلْتُ مَعَ عُمَرَ حَتَّى إِذَا كُنَّا بِمَرِّ الظَّهْرَانِ . وَسَاقَ الْحَدِيثَ بِطُولِهِ، كَنَحْوِ حَدِيثِ سُلَيْمَانَ بْنِ بِلاَلٍ. غَيْرَ أَنَّهُ قَالَ: قُلْتُ شَأْنُ الْـمَرْأَتَيْنِ؟ قَالَ: حَفْصَةُ وَأُمُّ سَلَمَةَ . وَزَادَ فِيهِ، وَأَتَيْتُ الْحُجَرَ فَإِذَا فِي كُلِّ بَيْتٍ بُكَاءٌ . وَزَادَ أَيْضًا: وَكَانَ آلَى مِنْهُنَّ شَهْرًا، فَلَـمَّا كَانَ تِسْعًا وَعِشْرِينَ نَزَلَ إِلَيْهِنَّ.

[3247–33]. (Dar al-Salam 3510) Abu Bakr ibn Abi Shaybah and Zuhayr ibn Ḥarb narrated (Abu Bakr’s text); both said: Sufyān ibn ʿUyaynah narrated; from Yaḥyā ibn Saʿīd; he heard ʿUbayd ibn Ḥunayn (who is al-ʿAbbās’ mawlā) say**: ‘I heard Ibn ʿAbbās say: “I wanted to ask ʿUmar about the two women who supported each other during the Prophet’s lifetime. I could not find an opportunity for a whole year. Then I accompanied him to Makkah. When he was at Marr al-Ẓahrān, he wanted to relieve**

himself. He said: ‘Bring me a bottle of water’. I brought one for him. When he had relieved himself and came back, I poured the water for him and remembered. I said: ‘*Amīr al-Mu’minīn*, who were the two women?’ I had not finished my words when he said: ‘ʿĀ’ishah and Ḥafṣah’.”’

وَحَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، وَزُهَيْرُ بْنُ حَرْبٍ (وَاللَّفْظُ لأَبِي بَكْرٍ)، قَالا: حَدَّثَنَا سُفْيَانُ بْنُ عُيَيْنَةَ، عَنْ يَحْيَى بْنِ سَعِيدٍ، سَمِعَ عُبَيْدَ بْنَ حُنَيْنٍ (مَوْلَى الْعَبَّاسِ) قَالَ: سَمِعْتُ ابْنَ عَبَّاسٍ يَقُولُ: كُنْتُ أُرِيدُ أَنْ أَسْأَلَ عُمَرَ عَنِ الْـمَرْأَتَيْنِ اللَّتَيْنِ تَظَاهَرَتَا عَلَى عَهْدِ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ. فَلَبِثْتُ سَنَةً مَا أَجِدُ لَهُ مَوْضِعًا، حَتَّى صَحِبْتُهُ إِلَى مَكَّةَ، فَلَـمَّا كَانَ بِمَرِّ الظَّهْرَانِ ذَهَبَ يَقْضِي حَاجَتَهُ، فَقَالَ أَدْرِكْنِي بِإِدَاوَةٍ مِنْ مَاءٍ. فَأَتَيْتُهُ بِهَا، فَلَـمَّا قَضَى حَاجَتَهُ وَرَجَعَ، ذَهَبْتُ أَصُبُّ عَلَيْهِ. وَذَكَرْتُ فَقُلْتُ لَهُ: يَا أَمِيرَ الْـمُؤْمِنِينَ مَنِ الْـمَرْأَتَانِ... فَمَا قَضَيْتُ كَلاَمِي حَتَّى قَالَ: عَائِشَةُ وَحَفْصَةُ.

[3248–34]. (Dar al-Salam 3511) Isḥāq ibn Ibrāhīm al-Ḥanẓalī and Muhammad ibn Abi ʿUmar narrated (with highly similar wording):[ii] ʿAbd al-Razzāq (Ibn Abi ʿUmar said: ‘narrated’ and Isḥāq said: ‘reported’); Maʿmar reported; from al-Zuhrī; from ʿUbaydullāh ibn ʿAbdullāh ibn Abi Thawr; from Ibn ʿAbbās. He said: **‘I was eager to ask ʿUmar about the two of the Prophet’s wives concerning whom God says: “Would that you two turn to God in repentance, for your hearts have swerved”. (66: 4) Then ʿUmar travelled for Hajj, and I went with him. At some point in the journey, he moved away, and I went after him with a bottle**

of water. After he relieved himself, he came back to me, and I poured the water over his hands and he performed *wudu*. I said: "*Amīr al-Mu'minīn*, who were the two of the Prophet's wives concerning whom God says: 'Would that you two turn to God in repentance, for your hearts have swerved?' He said: "How strange of you, Ibn ʿAbbās! (Al-Zuhrī said: By God, he disliked what he asked him about, but did not refuse to answer.) He said: "Ḥafṣah and ʿĀ'ishah", then he related the hadith.

He said: "We, the Quraysh people, were masters of our women. When we settled in Madinah, we found its people controlled by their women. Our women started to learn from theirs. My home was with the clan of Umayyah ibn Zayd, at the higher end. One day I was upset with my wife, and she argued with me. I was unhappy that she should argue with me. She said: 'Why should you dislike that I argue with you? By God, the Prophet's wives argue with him. Any of them may not talk to him the whole day up till nightfall'. I left her and went to Ḥafṣah. I asked her: 'Do you argue with God's Messenger?' She said: 'Yes'. I said: 'Do any of you not talk to him the whole day up till nightfall?' She said: 'Yes'. I said: 'Whoever of you does this is certainly a loser. Is any one of you certain that God may not be angry with her for making His Messenger angry? Thus, she ends up in ruin. Never argue with God's Messenger and do not ask him for anything. Put whatever request you have to me. Do not be upset that your neighbour (meaning ʿĀ'ishah) is prettier and dearer to God's Messenger than you'.

I had an Anṣārī neighbour. We took it in turns to go to God's Messenger (peace be upon him). He would go one day, and I would go the next day. He brought me any news of revelation or other things and I brought him the same. We were worried that the Ghassān were getting ready to attack us. One day, my friend went down [to God's Messenger] and returned in the evening. He knocked at my door and called me. I went out to him. He said: 'Something very serious has taken place'. I said: 'What is it? Has Ghassān come to attack?' He said: 'No, something far more serious. The Prophet (peace be upon him) has divorced his wives'. I said: 'Ḥafṣah is in utter loss. I thought that this might happen'.

When I prayed Fajr, I put on my clothes and went down. I entered Ḥafṣah's place and found her crying. I asked: 'Has God's Messenger divorced you all?' She said: 'I do not know. He is staying alone in the high room'. I went to a servant of his who was black and said: 'Request permission for ʿUmar to enter'. He went in and came out. He said to me: 'I mentioned you to him, but he remained silent'. I went up to the platform [in the mosque] and sat down. I found there a number of people sitting and some of them were crying. I sat for a short while and felt the matter too hard. I went to the servant and said: 'Request permission for ʿUmar to enter'. He went in then came out and said: 'I mentioned you, but he remained silent'. I turned and moved away, but the servant called out to me and said: 'You may enter; he has permitted you'. I went in and greeted God's Messenger (peace be upon him) as he was reclining on a sewn mat, which left a mark on his side. I said:

‘Messenger of God, have you divorced your wives?’ He looked up at me and said: ‘No’. I said: ‘God is Supreme!’

Had you seen us, Messenger of God? We, the Quraysh people, were masters of our women. When we migrated to Madinah, we found its people controlled by their women. Our women started to learn from theirs. One day I was upset with my wife, and she argued with me. I was unhappy that she should argue with me. She said: ‘Why should you dislike that I argue with you? By God, the Prophet’s wives argue with him. Any of them may not talk to him the whole day up till nightfall’. I said: ‘Any of them who does that is an utter loser. Can any one of them be certain that God may not be angry with her for making His Messenger angry? Thus, she ends up in ruin’. God’s Messenger smiled. I said: ‘Messenger of God, I went into Ḥafṣah’s and said to her: “Do not be upset that your neighbour is prettier and dearer to God’s Messenger than you”.’ The Prophet smiled again. I said: ‘May I carry on with conversation, Messenger of God’. He said: ‘Yes’. I sat down. I looked around the room. By God, I saw nothing that one may look at apart from three hides. I said: ‘Messenger of God, pray to God to give plenty of provisions to your community. He has given plenty to the Persians and the Byzantines, although they do not worship God’. He sat up and said: ‘Are you in doubt, Ibn al-Khaṭṭāb? Those are peoples whose good things were given to them early in this present life’. I said: ‘Please pray for my forgiveness, Messenger of God’. He had sworn not to enter their apartments for a whole month because he was very angry, and God, Mighty and Exalted, reproached him for that”.’

وَحَدَّثَنَا إِسْحَاقُ بْنُ إِبْرَاهِيمَ الْحَنْظَلِيُّ، وَمُحَمَّدُ بْنُ أَبِي عُمَرَ (وَتَقَارَبَا فِي لَفْظِ الْحَدِيثِ). قَالَ ابْنُ أَبِي عُمَرَ حَدَّثَنَا وَقَالَ إِسْحَاقُ أَخْبَرَنَا عَبْدُ الرَّزَّاقِ، أَخْبَرَنَا مَعْمَرٌ، عَنِ الزُّهْرِيِّ، عَنْ عُبَيْدِ اللهِ بْنِ عَبْدِ اللهِ بْنِ أَبِي ثَوْرٍ، عَنِ ابْنِ عَبَّاسٍ قَالَ: لَمْ أَزَلْ حَرِيصًا أَنْ أَسْأَلَ عُمَرَ عَنِ الْـمَرْأَتَيْنِ مِنْ أَزْوَاجِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ اللَّتَيْنِ قَالَ اللهُ تَعَالَى: «إِنْ تَتُوبَا إِلَى اللهِ فَقَدْ صَغَتْ قُلُوبُكُمَا»، حَتَّى حَجَّ عُمَرُ وَحَجَجْتُ مَعَهُ. فَلَـمَّا كُنَّا بِبَعْضِ الطَّرِيقِ عَدَلَ عُمَرُ وَعَدَلْتُ مَعَهُ بِالإِدَاوَةِ، فَتَبَرَّزَ ثُمَّ أَتَانِي، فَسَكَبْتُ عَلَى يَدَيْهِ، فَتَوَضَّأَ. فَقُلْتُ: يَا أَمِيرَ الْـمُؤْمِنِينَ، مَنِ الْـمَرْأَتَانِ مِنْ أَزْوَاجِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ اللَّتَانِ قَالَ اللهُ عَزَّ وَجَلَّ لَهُمَا: «إِنْ تَتُوبَا إِلَى اللهِ فَقَدْ صَغَتْ قُلُوبُكُمَا»؟ قَالَ عُمَرُ: وَاعَجَبًا لَكَ يَا ابْنَ عَبَّاسٍ - قَالَ الزُّهْرِيُّ كَرِهَ وَاللهِ مَا سَأَلَهُ عَنْهُ وَلَمْ يَكْتُمْهُ – قَالَ: هِيَ حَفْصَةُ وَعَائِشَةُ. ثُمَّ أَخَذَ يَسُوقُ الْحَدِيثَ.

قَالَ كُنَّا مَعْشَرَ قُرَيْشٍ قَوْمًا نَغْلِبُ النِّسَاءَ. فَلَـمَّا قَدِمْنَا الْـمَدِينَةَ وَجَدْنَا قَوْمًا تَغْلِبُهُمْ نِسَاؤُهُمْ، فَطَفِقَ نِسَاؤُنَا يَتَعَلَّمْنَ مِنْ نِسَائِهِمْ. قَالَ: وَكَانَ مَنْزِلِي فِي بَنِي أُمَيَّةَ بْنِ زَيْدٍ بِالْعَوَالِي. فَتَغَضَّبْتُ يَوْمًا عَلَى امْرَأَتِي، فَإِذَا هِيَ تُرَاجِعُنِي فَأَنْكَرْتُ أَنْ تُرَاجِعَنِي . فَقَالَتْ: مَا تُنْكِرُ أَنْ أُرَاجِعَكَ؟ فَوَاللهِ إِنَّ أَزْوَاجَ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ لَيُرَاجِعْنَهُ، وَتَهْجُرُهُ إِحْدَاهُنَّ الْيَوْمَ إِلَى اللَّيْلِ. فَانْطَلَقْتُ، فَدَخَلْتُ عَلَى حَفْصَةَ، فَقُلْتُ: أَتُرَاجِعِينَ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ؟ فَقَالَتْ نَعَمْ. فَقُلْتُ: أَتَهْجُرُهُ إِحْدَاكُنَّ الْيَوْمَ إِلَى اللَّيْلِ؟ قَالَتْ نَعَمْ . قُلْتُ: قَدْ خَابَ مَنْ فَعَلَ ذَلِكَ مِنْكُنَّ وَخَسِرَ. أَفَتَأْمَنُ إِحْدَاكُنَّ أَنْ يَغْضَبَ اللهُ عَلَيْهَا لِغَضَبِ رَسُولِهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، فَإِذَا هِيَ قَدْ هَلَكَتْ؟ لاَ تُرَاجِعِي رَسُولَ اللهِ

صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ وَلاَ تَسْأَلِيهِ شَيْئًا. وَسَلِينِي مَا بَدَا لَكِ. وَلا يَغُرَّنَّكِ أَنْ كَانَتْ جَارَتُكِ هِيَ أَوْسَمَ وَأَحَبَّ إِلَى رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ مِنْكِ - يُرِيدُ عَائِشَةَ.

قَالَ: وَكَانَ لِي جَارٌ مِنَ الأَنْصَارِ، فَكُنَّا نَتَنَاوَبُ النُّزُولَ إِلَى رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، فَيَنْزِلُ يَوْمًا وَأَنْزِلُ يَوْمًا، فَيَأْتِينِي بِخَبَرِ الْوَحْيِ وَغَيْرِهِ، وَآتِيهِ بِمِثْلِ ذَلِكَ. وَكُنَّا نَتَحَدَّثُ أَنَّ غَسَّانَ تُنْعِلُ الْخَيْلَ لِتَغْزُوَنَا، فَنَزَلَ صَاحِبِي ثُمَّ أَتَانِي عِشَاءً، فَضَرَبَ بَابِي ثُمَّ نَادَانِي، فَخَرَجْتُ إِلَيْهِ. فَقَالَ: حَدَثَ أَمْرٌ عَظِيمٌ . قُلْتُ: مَاذَا أَجَاءَتْ غَسَّانُ؟ قَالَ لا. بَلْ أَعْظَمُ مِنْ ذَلِكَ وَأَطْوَلُ. طَلَّقَ النَّبِيُّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ نِسَاءَهُ. فَقُلْتُ: قَدْ خَابَتْ حَفْصَةُ وَخَسِرَتْ. قَدْ كُنْتُ أَظُنُّ هَذَا كَائِنًا.

حَتَّى إِذَا صَلَّيْتُ الصُّبْحَ شَدَدْتُ عَلَىَّ ثِيَابِي، ثُمَّ نَزَلْتُ فَدَخَلْتُ عَلَى حَفْصَةَ وَهْىَ تَبْكِي. فَقُلْتُ: أَطَلَّقَكُنَّ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ؟ فَقَالَتْ: لا أَدْرِي هَاهُوَ ذَا مُعْتَزِلٌ فِي هَذِهِ الْـمَشْرُبَةِ . فَأَتَيْتُ غُلاَمًا لَهُ أَسْوَدَ، فَقُلْتُ اسْتَأْذِنْ لِعُمَرَ . فَدَخَلَ ثُمَّ خَرَجَ إِلَيَّ فَقَالَ: قَدْ ذَكَرْتُكَ لَهُ فَصَمَتَ. فَانْطَلَقْتُ حَتَّى انْتَهَيْتُ إِلَى الْمِنْبَرِ، فَجَلَسْتُ فَإِذَا عِنْدَهُ رَهْطٌ جُلُوسٌ، يَبْكِي بَعْضُهُمْ. فَجَلَسْتُ قَلِيلاً، ثُمَّ غَلَبَنِي مَا أَجِدُ. ثُمَّ أَتَيْتُ الْغُلاَمَ فَقُلْتُ اسْتَأْذِنْ لِعُمَرَ . فَدَخَلَ ثُمَّ خَرَجَ إِلَيَّ . فَقَالَ قَدْ ذَكَرْتُكَ لَهُ فَصَمَتَ . فَوَلَّيْتُ مُدْبِرًا، فَإِذَا الْغُلاَمُ يَدْعُونِي فَقَالَ: ادْخُلْ فَقَدْ أَذِنَ لَكَ. فَدَخَلْتُ فَسَلَّمْتُ عَلَى رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، فَإِذَا هُوَ مُتَّكِئٌ عَلَى رَمْلِ حَصِيرٍ، قَدْ أَثَّرَ فِي جَنْبِهِ. فَقُلْتُ: أَطَلَّقْتَ يَا رَسُولَ اللهِ نِسَاءَكَ؟ فَرَفَعَ رَأْسَهُ إِلَيَّ وَقَالَ: «لا». فَقُلْتُ: اللهُ أَكْبَرُ.

لَوْ رَأَيْتَنَا يَا رَسُولَ اللهِ، وَكُنَّا مَعْشَرَ قُرَيْشٍ قَوْمًا نَغْلِبُ النِّسَاءَ. فَلَـمَّا قَدِمْنَا الْـمَدِينَةَ وَجَدْنَا قَوْمًا تَغْلِبُهُمْ نِسَاؤُهُمْ، فَطَفِقَ نِسَاؤُنَا يَتَعَلَّمْنَ مِنْ نِسَائِهِمْ. فَتَغَضَّبْتُ عَلَى امْرَأَتِي يَوْمًا فَإِذَا هِيَ تُرَاجِعُنِي، فَأَنْكَرْتُ أَنْ تُرَاجِعَنِي . فَقَالَتْ: مَا تُنْكِرُ أَنْ أُرَاجِعَكَ فَوَاللهِ إِنَّ أَزْوَاجَ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ لَيُرَاجِعْنَهُ وَتَهْجُرُهُ إِحْدَاهُنَّ الْيَوْمَ إِلَى اللَّيْلِ . فَقُلْتُ: قَدْ خَابَ مَنْ فَعَلَ ذَلِكَ مِنْهُنَّ وَخَسِرَ. أَفَتَأْمَنُ إِحْدَاهُنَّ أَنْ يَغْضَبَ اللهُ عَلَيْهَا لِغَضَبِ رَسُولِهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَإِذَا هِيَ قَدْ هَلَكَتْ؟ فَتَبَسَّمَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ. فَقُلْتُ يَا رَسُولَ اللهِ، قَدْ دَخَلْتُ عَلَى حَفْصَةَ فَقُلْتُ: لا يَغُرَّنَّكِ أَنْ كَانَتْ جَارَتُكِ هِيَ أَوْسَمُ مِنْكِ وَأَحَبُّ إِلَى رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ مِنْكِ . فَتَبَسَّمَ أُخْرَى. فَقُلْتُ: أَسْتَأْنِسُ يَا رَسُولَ اللهِ؟ قَالَ: «نَعَمْ». فَجَلَسْتُ فَرَفَعْتُ رَأْسِي فِي الْبَيْتِ، فَوَاللهِ مَا رَأَيْتُ فِيهِ شَيْئًا يَرُدُّ الْبَصَرَ، إِلاَّ أُهُبًا ثَلاَثَةً. فَقُلْتُ: ادْعُ اللهَ يَا رَسُولَ اللهِ أَنْ يُوَسِّعَ عَلَى أُمَّتِكَ، فَقَدْ وَسَّعَ عَلَى فَارِسَ وَالرُّومِ، وَهُمْ لاَ يَعْبُدُونَ اللهَ. فَاسْتَوَى جَالِسًا ثُمَّ قَالَ: «أَفِي شَكٍّ أَنْتَ يَا ابْنَ الْخَطَّابِ؟ أُولَئِكَ قَوْمٌ عُجِّلَتْ لَهُمْ طَيِّبَاتُهُمْ فِي الْحَيَاةِ الدُّنْيَا». فَقُلْتُ: اسْتَغْفِرْ لِي يَا رَسُولَ اللهِ. وَكَانَ أَقْسَمَ أَنْ لاَ يَدْخُلَ عَلَيْهِنَّ شَهْرًا، مِنْ شِدَّةِ مَوْجِدَتِهِ عَلَيْهِنَّ، حَتَّى عَاتَبَهُ اللهُ عَزَّ وَجَلَّ.

[3249–35].[iii] Al-Zuhrī said: ʿUrwah reported to me; from ʿĀ’ishah. She said: **‘When twenty-nine nights had passed, God’s Messenger (peace be upon him) entered my home, starting with me. I said: “Messenger of God, you had sworn not to enter our homes for a month, and you have entered after twenty-nine [days]. I have counted them”. He said: “This month is twenty-**

nine days”. He then said: “ʿĀ’ishah, I shall mention something to you, and you do not have to decide before you have consulted your parents”. He then read out to me the verses: “God, Mighty and Exalted, said: ‘Prophet! Say to your wives: “If you desire the life of this world and its charms, I shall provide for you and release you in a becoming manner. But if you desire God and His Messenger and the life of the Hereafter, know that God has readied great rewards for those of you who do good”.’ (33: 28-29)’ She said: ‘By God, he knew that my parents would have never told me to part with him. I said: “Would I consult my parents on such a matter? I choose God, His Messenger and the life of the Hereafter”.’

Maʿmar said: Ayyūb informed me that ʿĀ’ishah said: **‘Do not tell your wives that I have chosen you’. The Prophet said to her: ‘God has sent me to deliver a message, not to make things hard’.**

قَالَ الزُّهْرِيُّ فَأَخْبَرَنِي عُرْوَةُ، عَنْ عَائِشَةَ قَالَتْ: لَـمَّا مَضَى تِسْعٌ وَعِشْرُونَ لَيْلَةً، دَخَلَ عَلَىَّ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، بَدَأَ بِي. فَقُلْتُ: يَا رَسُولَ اللهِ، إِنَّكَ أَقْسَمْتَ أَنْ لاَ تَدْخُلَ عَلَيْنَا شَهْرًا، وَإِنَّكَ دَخَلْتَ مِنْ تِسْعٍ وَعِشْرِينَ، أَعُدُّهُنَّ . فَقَالَ: «إِنَّ الشَّهْرَ تِسْعٌ وَعِشْرُونَ». ثُمَّ قَالَ: «يَا عَائِشَةُ إِنِّي ذَاكِرٌ لَكِ أَمْرًا فَلاَ عَلَيْكِ أَنْ لاَ تَعْجَلِي فِيهِ حَتَّى تَسْتَأْمِرِي أَبَوَيْكِ». ثُمَّ قَرَأَ عَلَىَّ الآيَةَ «يَا أَيُّهَا النَّبِيُّ قُلْ لأَزْوَاجِكَ ...» حَتَّى بَلَغَ «أَجْرًا عَظِيمًا». قَالَتْ عَائِشَةُ: قَدْ عَلِمَ وَاللهِ أَنَّ أَبَوَيَّ لَمْ يَكُونَا لِيَأْمُرَانِي بِفِرَاقِهِ. قَالَتْ فَقُلْتُ: أَوَفِي هَذَا أَسْتَأْمِرُ أَبَوَيَّ؟ فَإِنِّي أُرِيدُ اللهَ وَرَسُولَهُ وَالدَّارَ الآخِرَةَ . قَالَ مَعْمَرٌ: فَأَخْبَرَنِي أَيُّوبُ أَنَّ

عَائِشَةَ قَالَتْ: لاَ تُخْبِرْ نِسَاءَكَ أَنِّي اخْتَرْتُكَ. فَقَالَ لَهَا النَّبِيُّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «إِنَّ اللهَ أَرْسَلَنِي مُبَلِّغًا وَلَمْ يُرْسِلْنِي مُتَعَنِّتًا». قَالَ قَتَادَةُ: صَغَتْ قُلُوبُكُمَا: مَالَتْ قُلُوبُكُمَا.

Text Explanation

Note: As the hadiths in this chapter are very long, Imam al-Nawawī focuses on explaining the difficult words. This leaves some gaps in the narrative, which we will fill to provide a complete picture, God willing.

In the first hadith, No. 3244, ʿUmar mentions that when he came into the mosque, people were pressing pebbles in their hands. There was no carpet in the Prophet's mosque. He and his Companions prayed on the bare ground. On this occasion people were greatly disturbed by the trouble in the Prophet's homes. They sat in the mosque, feeling unable to do anything. Worried as they were, they picked up some pebbles, held them tight then threw them back onto the floor. This is the full picture of what the Arabic verb *yankit*, which is used in the hadith, paints.

When ʿUmar heard what people were saying, that God's Messenger had divorced his wives, he was greatly troubled, especially because one of the Prophet's wives, Ḥafṣah, was his daughter. He went straight to ʿĀ'ishah to remonstrate with her. He makes it clear here that this was before the Prophet's wives were commanded to stay behind a screen. This means that it occurred before the Prophet's marriage to Zaynab, which took place in the fifth year of the Hijrah. ʿĀ'ishah was not ready for such remonstration and she told ʿUmar to speak to his own daughter.

After a repeated attempt, ʿUmar gained admittance into the room where the Prophet was. He describes the storeroom the Prophet had, which could not even be described as a storeroom by any standard as there was very little therein. ʿUmar continued to talk to the Prophet until he brought about some cheerfulness.

The hadiths give different reports of the event, with some adding more details and others speaking of ʿUmar and the different status women had in Makkah and Madinah in pre-Islamic days. ʿUmar also mentions the arrangement he had with his Anṣārī neighbour and how they took it in turns to go down and sit with the Prophet. They would then report to each other

whatever they had learnt of new Qur'anic revelations, or any important events. At a time when the Prophet's Companions were worried about what they thought was an imminent attack by very powerful enemies, the Anṣārī reports to ʿUmar that a more serious event had occurred, which was the Prophet's desertion of his wives. This shows the great care the Prophet's Companions had of his affairs and how worried they were about anything that might incur his displeasure.

ʿUmar mentions that in the morning, he put on his clothes and went to see the Prophet. This indicates the desirability of taking care of one's clothing and appearance when meeting elders and people of high status or position. This, however, should only be meant as a gesture of respect. ʿUmar wept when he saw that the straw mat on which the Prophet reclined left its mark on his side. He contrasted the Prophet's poverty with the great refinements in which the rulers of great empires lived. However, the Prophet put that in the right perspective, telling him that what is in store for believers in the life to come is much greater and better.

In hadith No. 3246, the Prophet is said to have sworn 'to stay away from them for a month'. This is expressed in the hadith by the word *ālā*, which is used here in its linguistic sense: 'to swear'. This is different from the religious sense, which is given the term *īlā'*, which refers to a husband swearing not to have a normal marital relationship with his wife, primarily sexual intercourse, without divorcing her. In the Qur'an, such a person is given a period of grace lasting four months, by the end of which he must either resume full marital relations with his wife or divorce her.

Qadi ʿIyāḍ said that there is no disagreement among scholars concerning *īlā'*. It does not require any immediate divorce, indemnity or demand. However, scholars differ as regards its duration. Scholars of Hijaz and the majority of the Prophet's Companions, *tābiʿin* and their followers said that a husband is in a state of *īlā'* if his oath is for more than four months. If his oath is for four months, he is not in *īlā'*. Kufi scholars said that anyone who swears this for four months or longer is in a state of *īlā'*.

Ibn Abi Laylā, al-Ḥasan, Ibn Shibrimah and others differ, saying that if a husband swears not to have intercourse with his wife for one day or less, and then leaves her alone until four months have passed, he is in *īlā'*. On the other hand, Ibn ʿUmar said that anyone who specifies a time, even a very long period, is not in *īlā'*. Only the one who swears this forever is in *īlā'*. They are in agreement that the husband does not have to divorce his wife before the end of four months.

All scholars agree that if the husband has sexual intercourse with his wife before the end of the term, the state of *īlā'* is over. If no such intercourse occurs and the four months are over, Kufi scholars say the divorce occurs. On the other hand, scholars of Hijaz and Egypt, as well as Hadith scholars who are versed in Fiqh and the Ẓāhirīs are all in agreement that the husband is ordered to either resume marital relations by having sexual intercourse or divorce his wife. If he refuses, the judge dissolves the marriage. This is the well-known view of the Mālikī School, which is also endorsed by al-Shāfiʿī and his disciples. One report attributes to Mālik the same view as the Kufi scholars. Another view expressed by al-Shāfiʿī is that the judge does not dissolve the marriage. Instead, the husband is forced to choose either to resume relations or divorce. If he still refuses, a discretionary punishment is enforced on him.

Kufi scholars differ on whether the divorce is revocable or not. Other scholars are in agreement that whether the husband or the judge enforces the divorce, it is revocable. Mālik, however, says that the reinstatement of the marriage is not complete until sexual intercourse has taken place during the wife's waiting period. *Qadi* ʿIyāḍ said that this condition is not known to be expressed by any scholar other than Mālik. If three *qurū'*, [i.e., periods of cleanliness from menstruation] have been completed during the four-month period of *īlā'*, Jābir ibn Zayd says that the divorced woman need not observe a waiting period. The majority of scholars said that a waiting period is resumed.

Another point on which scholars hold different views is whether *īlā'* must be an oath made in anger and intended to have an adverse effect on the wife. The majority of scholars say that this is not a condition. The husband is in a state of *īlā'* in whatever condition he says his oath. Mālik and al-Awzāʿī said that if the oath is said in the interest of a child, until it is weaned, the husband is not deemed to be in a state of *īlā'*. ʿAlī and Ibn ʿAbbās said that the husband is not in *īlā'* unless he says his oath in anger.

In hadith No. 3247, the narrator, Ibn ʿAbbās says: 'I wanted to ask ʿUmar about the two women who supported each other during the Prophet's lifetime'. This is how it is stated in all manuscripts, 'during the Prophet's lifetime'. *Qadi* ʿIyāḍ said that Ibn ʿAbbās uses this formula out of respect for the Prophet's wives. The point is that they supported each other against the Prophet, as God says in the Qur'an: 'But if you two support each other against him'. (66: 4) In all other versions, it is mentioned that they supported each other against the Prophet.

In hadith No. 3248, Ibn ʿAbbās says that he poured the water for ʿUmar to do his *wudu*. This confirms that it is permissible to ask someone's help when performing the ablution, as we have clarified earlier. In brief, we may say that if such help is sought for a reason, it is perfectly permissible. If there is no particular reason, it is contrary to the better course, but we may not say that it is discouraged or *makrūh*.

When ʿUmar compared the Prophet's poverty to the splendid luxury which the emperors of Persia and Byzantium enjoyed and felt sorry for the Prophet, the Prophet told him: 'Those are peoples whose good things were given to them early in this present life'. *Qadi* ʿIyāḍ said: 'This statement is cited by those who argue that poverty is preferable to wealth. According to their understanding, whatever luxury one enjoys in this life will be part of what is kept in store for him to enjoy in the life to come. If one does not enjoy such luxury in this life, one will definitely have it in the Hereafter. Others understand the Prophet's statement as meaning that all that the

unbelievers will have is given to them in this present life, and they will have nothing in the future life, but God knows best.'

These hadiths show that it is permissible for a leader, a judge or one in a position of responsibility to remain secluded sometime in order to attend to some important matters. It is also clear that if a door keeper realizes that permission of entry is not granted by the mere silence of his chief, he should not admit anyone into his presence. In most cases, the Prophet did not have a door keeper. However, he had one on this occasion because he needed to be alone.

From the behaviour of the people mentioned in these hadiths, we learn several important points of good manners, including the following:

- It is a duty to seek permission to enter another person's place, even if one knows that that person is alone because he may be in a state which he does not like to be seen by others.
- If permission of entry is not given, there is no harm in repeating one's request.
- Everyone needs to request permission to enter, even those who are in high position.
- A man may discipline his son or daughter, even when they are an adult and when the daughter is a married woman. We note that Abu Bakr and ʿUmar disciplined their daughters who were wives of the Prophet.
- The Prophet's exemplary life that sought nothing of the comforts of this present life.
- It is permissible to live in an upper floor and to have a storeroom.
- The Prophet's Companions were very keen to seek knowledge and help each other in learning what takes place in their absence.
- Information gleaned by one person is acceptable. ʿUmar used to receive such information from his Anṣārī neighbour and the Anṣārī used to receive it from ʿUmar. Moreover, knowledge is sought from

the one who has it, even though the recipient is of a higher standard than the giver, as ʿUmar used to take from the Anṣārī.

- If one sees a friend upset and depressed and wishes to dispel his worry and relieve his problem, saying to him what he hopes will bring about a desired change in mood, one should seek permission to do so, as ʿUmar did when he said to the Prophet: ‘May I carry on with conversation’. Unless the recipient is willing, light conversation might be counterproductive. He might even embarrass the person he wants to please. This is an important point to bear in mind.
- It is commendable to show respect to one’s elders and serve them, as Ibn ʿAbbās did with ʿUmar.
- It is commendable to choose fine words when speaking to people. When ʿUmar spoke to his daughter, he referred to ʿĀ’ishah as her ‘neighbour’. He did not say ‘your *ḍurrah* or rival’ because *ḍurrah* is derived from a root which means ‘causing harm’.
- It is permissible to knock on one’s neighbour’s door for permission to enter.
- It is acceptable to feel acutely worried when a situation is very serious.
- It is permissible to look around one’s friend’s home if one knows that the friend does not dislike this. However, earlier scholars expressed a dislike of curiosity, but this is understood to apply when one knows that the owner dislikes such intrusion.
- A husband may stay away from his wife, and sleep in a different home if there is a good enough reason to justify this.
- It is permissible to say about someone ‘confound him’, as ʿUmar said ‘confound Ḥafṣah’. This is stated by ʿUmar ibn ʿAbd al-ʿAzīz and others, while Mālik expressed dislike.
- The hadith highlights ʿĀ’ishah’s merit as the Prophet started with her in offering his wives the choice and began his round with her after the month was over.

The hadiths include other points, but God knows best.

Transmission

The chain of transmission of hadith No. 3247 includes: ‘Sufyān ibn ʿUyaynah narrated; from Yaḥyā ibn Saʿīd; he heard ʿUbayd ibn Ḥunayn (who is al-ʿAbbās’ *mawlā*) say’. This is how it occurs in all copies with ʿUbayd described as al-ʿAbbās’ *mawlā*. They say that this is what has been stated by Sufyān ibn ʿUyaynah. Al-Bukhari said that what Sufyān says is wrong. Mālik said he was the *mawlā* of the family of Zayd ibn al-Khaṭṭāb. On the other hand, Muhammad ibn Jaʿfar ibn Abi Kathīr said that he was the *mawlā* of Banī Zurayq. *Qadi* ʿIyāḍ and others said that the correct view according to Hadith masters is the view expressed by Mālik.

i. Related by al-Bukhari, 4913, 5843 and in shorter versions 4914, 4915, 5218, 7256 and 7263.
ii. Related by al-Bukhari, 89, 2468, 5191 and 6218; al-Tirmidhī, 2461; al-Nasā’ī in a shorter version, 2131.
iii. In Dar al-Salam’s edition, this hadith is made a part of the previous one.

CHAPTER 6

NO MAINTENANCE DUE TO A THRICE-DIVORCED WIFE

[3250–36]. (Dar al-Salam 3512) Yaḥyā ibn Yaḥyā narrated:[i] he said: I read out to Mālik; from ʿAbdullāh ibn Yazīd, al-Aswad ibn Sufyān's *mawlā*; from Abu Salamah ibn ʿAbd al-Raḥmān; from Fāṭimah bint Qays; that **'Abu ʿAmr ibn Ṣāliḥ divorced her irrevocably when he was absent. His deputy sent her some barley, but she disliked this. He said to her: "By God, we owe you nothing". She went to God's Messenger (peace be upon him) and mentioned it to him. He said: "He owes you no maintenance". The Prophet ordered her to observe her waiting period in Umm Sharīk's home. He then said: "This is a woman who is visited by my companions. Observe your waiting period at Ibn Umm Maktūm, for he is a blind man, and you can take off your [top] clothes [in his home]. When you have finished your waiting period, let me know". She said: "When I finished my waiting period, I told him that Muʿāwiyah ibn Abi Sufyān and Abu Jahm had proposed to marry me". God's Messenger said: "As for Abu Jahm, he always carries his stick on his shoulder. And as for Muʿāwiyah, he is poor, having no money. Marry Usāmah ibn Zayd". I disliked him. He again said:**

“Marry Usāmah”. I married him, and God made it a good marriage and I was happy’.

حَدَّثَنَا يَحْيَى بْنُ يَحْيَى، قَالَ قَرَأْتُ عَلَى مَالِكٍ، عَنْ عَبْدِ اللهِ بْنِ يَزِيدَ، مَوْلَى الأَسْوَدِ بْنِ سُفْيَانَ، عَنْ أَبِي سَلَمَةَ بْنِ عَبْدِ الرَّحْمَنِ، عَنْ فَاطِمَةَ بِنْتِ قَيْسٍ، أَنَّ أَبَا عَمْرِو بْنَ حَفْصٍ طَلَّقَهَا الْبَتَّةَ وَهُوَ غَائِبٌ. فَأَرْسَلَ إِلَيْهَا وَكِيلُهُ بِشَعِيرٍ، فَسَخِطَتْهُ. فَقَالَ: وَاللهِ مَا لَكِ عَلَيْنَا مِنْ شَىْءٍ. فَجَاءَتْ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَذَكَرَتْ ذَلِكَ لَهُ، فَقَالَ: «لَيْسَ لَكِ عَلَيْهِ نَفَقَةٌ» . فَأَمَرَهَا أَنْ تَعْتَدَّ فِي بَيْتِ أُمِّ شَرِيكٍ. ثُمَّ قَالَ: «تِلْكَ امْرَأَةٌ يَغْشَاهَا أَصْحَابِي. اعْتَدِّي عِنْدَ ابْنِ أُمِّ مَكْتُومٍ، فَإِنَّهُ رَجُلٌ أَعْمَى تَضَعِينَ ثِيَابَكِ. فَإِذَا حَلَلْتِ فَآذِنِينِي». قَالَتْ: فَلَمَّا حَلَلْتُ ذَكَرْتُ لَهُ أَنَّ مُعَاوِيَةَ بْنَ أَبِي سُفْيَانَ وَأَبَا جَهْمٍ خَطَبَانِي. فَقَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «أَمَّا أَبُو جَهْمٍ فَلاَ يَضَعُ عَصَاهُ عَنْ عَاتِقِهِ، وَأَمَّا مُعَاوِيَةُ فَصُعْلُوكٌ لاَ مَالَ لَهُ. انْكِحِي أُسَامَةَ بْنَ زَيْدٍ». فَكَرِهْتُهُ، ثُمَّ قَالَ: «انْكِحِي أُسَامَةَ». فَنَكَحْتُهُ، فَجَعَلَ اللهُ فِيهِ خَيْرًا، وَاغْتَبَطْتُ بِهِ.

[3251–37]. (Dar al-Salam 3513) Qutaybah ibn Saʿīd narrated: ʿAbd al-ʿAzīz (meaning Ibn Abi Ḥāzim) narrated. Qutaybah also said: Yaʿqūb (meaning Ibn ʿAbd al-Raḥmān al-Qāriy) narrated; both from Abu Ḥāzim; from Abu Salamah; from Fāṭimah bint Qays that **‘Her husband divorced her during the Prophet’s lifetime. He gave her paltry maintenance. When she saw this, she said: “By God, I shall tell God’s Messenger (peace be upon him). If I am entitled maintenance, I shall take what is suitable for me. If I am not entitled to it, I shall take nothing from him. I mentioned**

it to God’s Messenger (peace be upon him) and he said: ‘You are entitled to neither maintenance nor lodging’.”’

حَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ، حَدَّثَنَا عَبْدُ الْعَزِيزِ، (يَعْنِي ابْنَ أَبِي حَازِمٍ). وَقَالَ قُتَيْبَةُ أَيْضًا: حَدَّثَنَا يَعْقُوبُ (يَعْنِي ابْنَ عَبْدِ الرَّحْمَنِ الْقَارِيَّ)، كِلاَهُمَا عَنْ أَبِي حَازِمٍ، عَنْ أَبِي سَلَمَةَ، عَنْ فَاطِمَةَ بِنْتِ قَيْسٍ، أَنَّهُ طَلَّقَهَا زَوْجُهَا فِي عَهْدِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ. وَكَانَ أَنْفَقَ عَلَيْهَا نَفَقَةَ دُونٍ. فَلَـمَّا رَأَتْ ذَلِكَ قَالَتْ: وَاللهِ لأُعْلِمَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، فَإِذَا كَانَ لِي نَفَقَةٌ أَخَذْتُ الَّذِي يُصْلِحُنِي، وَإِنْ لَمْ تَكُنْ لِي نَفَقَةٌ لَمْ آخُذْ مِنْهُ شَيْئًا. قَالَتْ فَذَكَرْتُ ذَلِكَ لِرَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَقَالَ: «لا نَفَقَةَ لَكِ وَلا سُكْنَى».

[3252–000]. (Dar al-Salam 3514) Qutaybah ibn Saʿīd narrated: Layth narrated; from ʿImrān ibn Abi Anas; from Abu Salamah; that he said: **‘I asked Fāṭimah bint Qays and she told me that her Makhzūmī husband divorced her and refused to give her maintenance. She went to God’s Messenger and informed him. The Prophet said to her: “You are not entitled to maintenance. Move out and go to Ibn Umm Maktūm and stay with him. He is a blind man, and you can take off your [top] clothes there”.’**

حَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ، حَدَّثَنَا لَيْثٌ، عَنْ عِمْرَانَ بْنِ أَبِي أَنَسٍ، عَنْ أَبِي سَلَمَةَ أَنَّهُ قَالَ: سَأَلْتُ فَاطِمَةَ بِنْتَ قَيْسٍ فَأَخْبَرَتْنِي أَنَّ زَوْجَهَا الْـمَخْزُومِيَّ طَلَّقَهَا، فَأَبَى أَنْ يُنْفِقَ عَلَيْهَا. فَجَاءَتْ إِلَى رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَأَخْبَرَتْهُ، فَقَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «لا

نَفَقَةَ لَكِ. فَانْتَقِلِي فَاذْهَبِي إِلَى ابْنِ أَمِّ مَكْتُومٍ، فَكُونِي عِنْدَهُ. فَإِنَّهُ رَجُلٌ أَعْمَى تَضَعِينَ ثِيَابَكِ عِنْدَهُ».

[3253–38]. (Dar al-Salam 3515) Muhammad ibn Rāfiʿ narrated to me: Ḥusayn ibn Muhammad narrated; Shaybān narrated; from Yaḥyā (who is Ibn Abi Kathīr); Abu Salamah reported to me; that **‘Fāṭimah bint Qays, al-Ḍaḥḥāk ibn Qays’ sister told him that Abu Ḥafṣ ibn al-Mughīrah al-Makhzūmī divorced her three times, then travelled to Yemen. His people told her: “We do not owe you any maintenance”. Khālid ibn al-Walīd and a group went to God’s Messenger (peace be upon him) in Maymūnah’s apartment. They said: “Abu Ḥafṣ divorced his wife three times. Is she owed any maintenance?” God’s Messenger (peace be upon him) said: “She is not entitled to maintenance, but she must observe a waiting period”. He sent her a message saying: “Do not precipitate me regarding yourself”. He ordered her to move to Umm Sharīk’s home. He then sent her a message saying: “Umm Sharīk is visited by the early Muhājirīn. Stay in Ibn Umm Maktūm, the blind man’s [home]. He would not see you when you take off your headdress”. She went to him. When her waiting period was over, God’s Messenger married her to Usāmah ibn Zayd ibn Ḥārithah’.**

وَحَدَّثَنِي مُحَمَّدُ بْنُ رَافِعٍ، حَدَّثَنَا حُسَيْنُ بْنُ مُحَمَّدٍ، حَدَّثَنَا شَيْبَانُ، عَنْ يَحْيَى (وَهُوَ ابْنُ أَبِي كَثِيرٍ)، أَخْبَرَنِي أَبُو سَلَمَةَ، أَنَّ فَاطِمَةَ بِنْتَ قَيْسٍ، أُخْتَ الضَّحَّاكِ بْنِ قَيْسٍ أَخْبَرَتْهُ، أَنَّ أَبَا حَفْصِ بْنَ الْـمُغِيرَةِ الْـمَخْزُومِيَّ طَلَّقَهَا ثَلاَثًا، ثُمَّ انْطَلَقَ إِلَى الْيَمَنِ. فَقَالَ لَهَا أَهْلُهُ: لَيْسَ لَكِ عَلَيْنَا نَفَقَةٌ .

فَانْطَلَقَ خَالِدُ بْنُ الْوَلِيدِ فِي نَفَرٍ، فَأَتَوْا رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فِي بَيْتِ مَيْمُونَةَ، فَقَالُوا إِنَّ أَبَا حَفْصٍ طَلَّقَ امْرَأَتَهُ ثَلاَثًا فَهَلْ لَهَا مِنْ نَفَقَةٍ؟ فَقَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «لَيْسَتْ لَهَا نَفَقَةٌ وَعَلَيْهَا الْعِدَّةُ». وَأَرْسَلَ إِلَيْهَا «أَنْ لاَ تَسْبِقِينِي بِنَفْسِكِ». وَأَمَرَهَا أَنْ تَنْتَقِلَ إِلَى أُمِّ شَرِيكٍ، ثُمَّ أَرْسَلَ إِلَيْهَا «أَنَّ أُمَّ شَرِيكٍ يَأْتِيهَا الْـمُهَاجِرُونَ الأَوَّلُونَ، فَانْطَلِقِي إِلَى ابْنِ أُمِّ مَكْتُومٍ الأَعْمَى، فَإِنَّكِ إِذَا وَضَعْتِ خِمَارَكِ لَمْ يَرَكِ». فَانْطَلَقَتْ إِلَيْهِ. فَلَـمَّا مَضَتْ عِدَّتُهَا أَنْكَحَهَا رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ أُسَامَةَ بْنَ زَيْدِ بْنِ حَارِثَةَ.

[3254–39]. (Dar al-Salam 3516) Yaḥyā ibn Ayyūb, Qutaybah ibn Saʿīd and Ibn Ḥujr narrated: they said: Ismāʿīl (meaning Ibn Jaʿfar) narrated; from Muhammad ibn ʿAmr; from Abu Salamah; from Fāṭimah bint Qays [H]. Also, Abu Bakr ibn Abi Shaybah narrated; Muhammad ibn Bashr narrated; Muhammad ibn ʿAmr narrated; Abu Salamah narrated; from Fāṭimah bint Qays, adding: **‘I committed it to writing straight from her mouth. She said: “I was married to a man from the Makhzūm clan, and he divorced me irrevocably. I sent to his people requesting maintenance…”.’ They narrated the hadith in the same meaning as the narration of Yaḥyā ibn Abi Kathīr from Abu Salamah, except that in Muhammad ibn ʿAmr’s narration: ‘Do not let us miss out regarding yourself’.**

حَدَّثَنَا يَحْيَى بْنُ أَيُّوبَ، وَقُتَيْبَةُ بْنُ سَعِيدٍ، وَابْنُ حُجْرٍ قَالُوا: حَدَّثَنَا إِسْمَاعِيلُ (يَعْنُونَ ابْنَ جَعْفَرٍ)، عَنْ مُحَمَّدِ بْنِ عَمْرٍو، عَنْ أَبِي سَلَمَةَ، عَنْ فَاطِمَةَ بِنْتِ قَيْسٍ، ح. وَحَدَّثَنَاهُ أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا مُحَمَّدُ بْنُ

بِشْرٍ، حَدَّثَنَا مُحَمَّدُ بْنُ عَمْرٍو، حَدَّثَنَا أَبُو سَلَمَةَ، عَنْ فَاطِمَةَ بِنْتِ قَيْسٍ، قَالَ: كَتَبْتُ ذَلِكَ مِنْ فِيهَا كِتَابًا. قَالَتْ: كُنْتُ عِنْدَ رَجُلٍ مِنْ بَنِي مَخْزُومٍ، فَطَلَّقَنِي الْبَتَّةَ. فَأَرْسَلْتُ إِلَى أَهْلِهِ أَبْتَغِي النَّفَقَةَ . وَاقْتَصُّوا الْحَدِيثَ بِمَعْنَى حَدِيثِ يَحْيَى بْنِ أَبِي كَثِيرٍ عَنْ أَبِي سَلَمَةَ . غَيْرَ أَنَّ فِي حَدِيثِ مُحَمَّدِ بْنِ عَمْرٍو: «لا تَفُوتِينَا بِنَفْسِكِ».

[3255–40]. (Dar al-Salam 3517) Ḥasan ibn ʿAlī al-Ḥulwānī and ʿAbd ibn Ḥumayd narrated: both from Yaʿqūb ibn Ibrāhīm ibn Saʿd; my father narrated; from Ṣāliḥ; from Ibn Shihāb; that Abu Salamah ibn ʿAbd al-Raḥmān ibn ʿAwf reported to him; that **‘Fāṭimah bint Qays told him that she was married to Abu ʿAmr ibn Ḥafṣ ibn al-Mughīrah and he divorced her the last of three divorces. She claimed that she went to God’s Messenger (peace be upon him) asking him about leaving her home. He ordered her to move to Ibn Umm Maktūm, the blind man’s home. Marwān refused to believe him concerning a divorced woman leaving her home. ʿUrwah said that ʿĀ’ishah rejected this from Fāṭimah bint Qays’.**

حَدَّثَنَا حَسَنُ بْنُ عَلِيٍّ الْحُلْوَانِيُّ، وَعَبْدُ بْنُ حُمَيْدٍ، جَمِيعًا عَنْ يَعْقُوبَ بْنِ إِبْرَاهِيمَ بْنِ سَعْدٍ، حَدَّثَنَا أَبِي، عَنْ صَالِحٍ، عَنِ ابْنِ شِهَابٍ، أَنَّ أَبَا سَلَمَةَ بْنَ عَبْدِ الرَّحْمَنِ بْنِ عَوْفٍ أَخْبَرَهُ، أَنَّ فَاطِمَةَ بِنْتَ قَيْسٍ أَخْبَرَتْهُ، أَنَّهَا كَانَتْ تَحْتَ أَبِي عَمْرِو بْنِ حَفْصِ بْنِ الْـمُغِيرَةِ، فَطَلَّقَهَا آخِرَ ثَلاَثِ تَطْلِيقَاتٍ. فَزَعَمَتْ أَنَّهَا جَاءَتْ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ تَسْتَفْتِيهِ فِي خُرُوجِهَا مِنْ بَيْتِهَا. فَأَمَرَهَا أَنْ تَنْتَقِلَ إِلَى ابْنِ أُمِّ مَكْتُومٍ

الأَعْمَى. فَأَبَى مَرْوَانُ أَنْ يُصَدِّقَهُ فِي خُرُوجِ الْـمُطَلَّقَةِ مِنْ بَيْتِهَا، وَقَالَ عُرْوَةُ: إِنَّ عَائِشَةَ أَنْكَرَتْ ذَلِكَ عَلَى فَاطِمَةَ بِنْتِ قَيْسٍ.

[3256–000].[ii] Muhammad ibn Rāfiʿ narrated to me: Ḥujayn narrated; al-Layth narrated; from ʿUqayl; from Ibn Shihāb; with the same chain of transmission: **the same text, including that ʿUrwah said that ʿĀ'ishah rejected this from Fāṭimah.**

وَحَدَّثَنِيهِ مُحَمَّدُ بْنُ رَافِعٍ، حَدَّثَنَا حُجَيْنٌ، حَدَّثَنَا اللَّيْثُ، عَنْ عُقَيْلٍ، عَنِ ابْنِ شِهَابٍ، بِهَذَا الإِسْنَادِ: مِثْلَهُ، مَعَ قَوْلِ عُرْوَةَ إِنَّ عَائِشَةَ أَنْكَرَتْ ذَلِكَ عَلَى فَاطِمَةَ.

[3257–41]. (Dar al-Salam 3518) Isḥāq ibn Ibrāhīm and ʿAbd ibn Ḥumayd narrated (ʿAbd's text):[iii] both said: ʿAbd al-Razzāq reported; Maʿmar reported; from al-Zuhrī; from ʿUbaydullāh ibn ʿAbdullāh ibn ʿUtbah; that **'Abu ʿAmr ibn Ḥafṣ ibn al-Mughīrah joined ʿAlī ibn Abi Ṭālib on his mission to Yemen. He sent his wife Fāṭimah bint Qays a divorce, which was the last remaining of her three divorces. Al-Ḥārith ibn Hishām and ʿAyyāsh ibn Abi Rabīʿah sent her some maintenance, and said: "By God, you are not entitled to any maintenance unless you are pregnant". She went to the Prophet and told him what they said. The Prophet said to her: "You are not entitled to maintenance". She requested his permission to move out. He agreed. She said: "Where to, Messenger of God?" He said: "To Ibn Umm Maktūm", who was a blind man. She could take off her clothes in his home while he could not see her. When her**

waiting period was over, the Prophet married her to Usāmah ibn Zayd.

Marwān sent Qabīṣah ibn Dhu'ayb to her asking her about the hadith, and she narrated it to him. Marwān said: "We only heard this from one woman. We shall continue to do what we are certain of, that which we found our people doing". When Fāṭimah heard what Marwān said, she said: "The Qur'an is the arbiter between you and me. God, Mighty and Exalted, said: 'Do not drive them out of their homes, nor shall they themselves leave, unless they commit a flagrant indecency'. (65: 1) This applies to the one whose marriage can be re-instated. What can happen after the third? How can you say she is not entitled to maintenance if she is not pregnant? On what basis do you require her to stay?"'

حَدَّثَنَا إِسْحَاقُ بْنُ إِبْرَاهِيمَ، وَعَبْدُ بْنُ حُمَيْدٍ (وَاللَّفْظُ لِعَبْدٍ) قَالا: أَخْبَرَنَا عَبْدُ الرَّزَّاقِ، أَخْبَرَنَا مَعْمَرٌ، عَنِ الزُّهْرِيِّ، عَنْ عُبَيْدِ اللهِ بْنِ عُتْبَةَ، أَنَّ أَبَا عَمْرِو بْنَ حَفْصِ بْنِ الْـمُغِيرَةِ خَرَجَ مَعَ عَلِيِّ بْنِ أَبِي طَالِبٍ إِلَى الْيَمَنِ. فَأَرْسَلَ إِلَى امْرَأَتِهِ فَاطِمَةَ بِنْتِ قَيْسٍ بِتَطْلِيقَةٍ كَانَتْ بَقِيَتْ مِنْ طَلاَقِهَا. وَأَمَرَ لَهَا الْحَارِثَ بْنَ هِشَامٍ وَعَيَّاشَ بْنَ أَبِي رَبِيعَةَ بِنَفَقَةٍ. فَقَالا لَهَا: وَاللهِ مَا لَكِ نَفَقَةٌ إِلا أَنْ تَكُونِي حَامِلاً. فَأَتَتِ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَذَكَرَتْ لَهُ قَوْلَهُمَا . فَقَالَ: «لا نَفَقَةَ لَكِ». فَاسْتَأْذَنَتْهُ فِي الاِنْتِقَالِ، فَأَذِنَ لَهَا. فَقَالَتْ: أَيْنَ يَا رَسُولَ اللهِ؟ فَقَالَ: «إِلَى ابْنِ أُمِّ مَكْتُومٍ». وَكَانَ أَعْمَى تَضَعُ ثِيَابَهَا عِنْدَهُ وَلاَ يَرَاهَا. فَلَـمَّا مَضَتْ عِدَّتُهَا أَنْكَحَهَا النَّبِيُّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ أُسَامَةَ بْنَ زَيْدٍ. فَأَرْسَلَ إِلَيْهَا مَرْوَانُ

قَبِيصَةَ بْنَ ذُؤَيْبٍ يَسْأَلُهَا عَنِ الْحَدِيثِ، فَحَدَّثَتْهُ بِهِ. فَقَالَ مَرْوَانُ: لَمْ نَسْمَعْ هَذَا الْحَدِيثَ إِلاَّ مِنِ امْرَأَةٍ. سَنَأْخُذُ بِالْعِصْمَةِ الَّتِي وَجَدْنَا النَّاسَ عَلَيْهَا. فَقَالَتْ فَاطِمَةُ حِينَ بَلَغَهَا قَوْلُ مَرْوَانَ: فَبَيْنِي وَبَيْنَكُمُ الْقُرْآنُ. قَالَ اللهُ عَزَّ وَجَلَّ: «لاَ تُخْرِجُوهُنَّ مِنْ بُيُوتِهِنَّ» الآيَةَ. قَالَتْ: هَذَا لِـمَنْ كَانَتْ لَهُ مُرَاجَعَةٌ، فَأَيُّ أَمْرٍ يَحْدُثُ بَعْدَ الثَّلاَثِ؟ فَكَيْفَ تَقُولُونَ: لاَ نَفَقَةَ لَهَا إِذَا لَمْ تَكُنْ حَامِلاً، فَعَلاَمَ تَحْبِسُونَهَا؟

[3258–42]. (Dar al-Salam 3519-3520) Zuhayr ibn Ḥarb narrated to me:[iv] Hushaym narrated; Sayyār, Ḥuṣayn, Mughīrah, Ashʿath, Mujālid, Ismāʿīl ibn Abi Khālid and Dāwūd reported; all from al-Shaʿbī. He said: **‘I visited Fāṭimah bint Qays and I asked her about God’s Messenger’s ruling in her case. She said that her husband divorced her irrevocably. “I complained against him to God’s Messenger concerning lodging and maintenance. He said that I had no right to either lodging or maintenance. He ordered me to spend my waiting period in Ibn Umm Maktūm’s home”.’**

حَدَّثَنِي زُهَيْرُ بْنُ حَرْبٍ، حَدَّثَنَا هُشَيْمٌ، أَخْبَرَنَا سَيَّارٌ، وَحُصَيْنٌ، وَمُغِيرَةُ، وَأَشْعَثُ، وَمُجَالِدٌ وَإِسْمَاعِيلُ بْنُ أَبِي خَالِدٍ وَدَاوُدُ: كُلُّهُمْ عَنِ الشَّعْبِيِّ، قَالَ: دَخَلْتُ عَلَى فَاطِمَةَ بِنْتِ قَيْسٍ فَسَأَلْتُهَا عَنْ قَضَاءِ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ عَلَيْهَا. فَقَالَتْ طَلَّقَهَا زَوْجُهَا الْبَتَّةَ . فَقَالَتْ فَخَاصَمْتُهُ إِلَى رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فِي السُّكْنَى وَالنَّفَقَةِ. قَالَتْ: فَلَمْ يَجْعَلْ لِي سُكْنَى وَلا نَفَقَةً، وَأَمَرَنِي أَنْ أَعْتَدَّ فِي بَيْتِ ابْنِ أُمِّ مَكْتُومٍ.

Yaḥyā ibn Yaḥyā narrated; Hushaym reported; from Ḥuṣayn, Dāwūd, Mughīrah, Ismāʿīl and Ashʿath; from al-Shaʿbī; that he said: **‘I visited Fāṭimah bint Qays…’ the same text as Zuhayr’s narration from Hushaym.**

وَحَدَّثَنَا يَحْيَى بْنُ يَحْيَى، أَخْبَرَنَا هُشَيْمٌ، عَنْ حُصَيْنٍ، وَدَاوُدَ، وَمُغِيرَةَ، وَإِسْمَاعِيلَ، وَأَشْعَثَ عَنِ الشَّعْبِيِّ أَنَّهُ قَالَ: دَخَلْتُ عَلَى فَاطِمَةَ بِنْتِ قَيْسٍ.. . بِمِثْلِ حَدِيثِ زُهَيْرٍ عَنْ هُشَيْمٍ.

[3259–43]. (Dar al-Salam 3521) Yaḥyā ibn Ḥabīb narrated: Khāid ibn al-Ḥārith al-Hujaymī narrated; Qurrah narrated; Sayyār Abu al-Ḥakam narrated; al-Shaʿbī narrated. He said: **‘We visited Fāṭimah bint Qays and she presented to us Ibn Ṭāb dates and gave us the Sult drink. I asked her about a thrice-divorced woman: “Where does she spend her waiting period?” She said: “My husband divorced me three times and the Prophet (peace be upon him) permitted me to stay with my people during my waiting period”.’**

حَدَّثَنَا يَحْيَى بْنُ حَبِيبٍ، حَدَّثَنَا خَالِدُ بْنُ الْحَارِثِ الْهُجَيْمِيُّ، حَدَّثَنَا قُرَّةُ، حَدَّثَنَا سَيَّارٌ أَبُو الْحَكَمِ، حَدَّثَنَا الشَّعْبِيُّ قَالَ: دَخَلْنَا عَلَى فَاطِمَةَ بِنْتِ قَيْسٍ، فَأَتْحَفَتْنَا بِرُطَبِ ابْنِ طَابٍ، وَسَقَتْنَا سَوِيقَ سُلْتٍ. فَسَأَلْتُهَا عَنِ الْـمُطَلَّقَةِ ثَلاَثًا: أَيْنَ تَعْتَدُّ؟ قَالَتْ: طَلَّقَنِي بَعْلِي ثَلاَثًا، فَأَذِنَ لِي النَّبِيُّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ أَنْ أَعْتَدَّ فِي أَهْلِي.

[3260–44]. (Dar al-Salam 3522) Muhammad ibn al-Muthannā and Ibn Bashshār narrated: both said: ʿAbd al-Raḥmān ibn Mahdī

narrated; Sufyān narrated; from Salamah ibn Kuhayl; from al-Shaʿbī; from Fāṭimah bint Qays; from the Prophet (peace be upon him); concerning a thrice-divorced woman. He said: **‘She is entitled to neither lodging nor maintenance’.**

حَدَّثَنَا مُحَمَّدُ بْنُ الْـمُثَنَّى، وَابْنُ بَشَّارٍ قَالا: حَدَّثَنَا عَبْدُ الرَّحْمَنِ بْنُ مَهْدِيٍّ، حَدَّثَنَا سُفْيَانُ، عَنْ سَلَمَةَ بْنِ كُهَيْلٍ، عَنِ الشَّعْبِيِّ، عَنْ فَاطِمَةَ بِنْتِ قَيْسٍ، عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فِي الْـمُطَلَّقَةِ ثَلاَثًا قَالَ: «لَيْسَ لَهَا سُكْنَى وَلا نَفَقَةٌ».

[3261–45]. (Dar al-Salam 3523) Isḥāq ibn Ibrāhīm al-Ḥanẓalī narrated to me: Yaḥyā ibn Adam reported; ʿAmmār ibn Ruzayq narrated; from Abu Isḥāq; from al-Shaʿbī; from Fāṭimah bint Qays. She said: **‘My husband divorced me three times, and I preferred to move. I went to the Prophet (peace be upon him). He said: “Move to the home of your cousin, ʿAmr ibn Umm Maktūm, and spend your waiting period there”.’**

وَحَدَّثَنِي إِسْحَاقُ بْنُ إِبْرَاهِيمَ الْحَنْظَلِيُّ، أَخْبَرَنَا يَحْيَى بْنُ آدَمَ، حَدَّثَنَا عَمَّارُ بْنُ رُزَيْقٍ، عَنْ أَبِي إِسْحَاقَ، عَنِ الشَّعْبِيِّ، عَنْ فَاطِمَةَ بِنْتِ قَيْسٍ، قَالَتْ: طَلَّقَنِي زَوْجِي ثَلاَثًا، فَأَرَدْتُ النُّقْلَةَ، فَأَتَيْتُ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَقَالَ: «انْتَقِلِي إِلَى بَيْتِ ابْنِ عَمِّكِ، عَمْرِو بْنِ أُمِّ مَكْتُومٍ، فَاعْتَدِّي عِنْدَهُ».

[3262–46]. (Dar al-Salam 3524-3525) Muhammad ibn ʿAmr ibn Jabalah narrated: Abu Ahmad narrated; ʿAmmār ibn Ruzayq narrated; from Abu Isḥāq. He said: **‘I was sitting with al-Aswad**

ibn Yazīd in the great mosque. Al-Shaʿbī was with us. Al-Shaʿbī narrated the case of Fāṭimah bint Qays saying that God's Messenger told her that she was not entitled to lodging or maintenance. Al-Aswad took a handful of pebbles and threw them at him. He said: "Woe to you, narrating such tales". ʿUmar said: "We shall not abandon God's Book and the Prophet's Sunnah on the basis of what one woman says, when we do not know whether she has kept [the case] in memory or forgotten it. She is entitled to lodging and maintenance. God says: 'Do not drive them out of their homes, nor shall they themselves leave, unless they commit a flagrant indecency'."' (65: 1)

وَحَدَّثَنَاهُ مُحَمَّدُ بْنُ عَمْرِو بْنِ جَبَلَةَ، حَدَّثَنَا أَبُو أَحْمَدَ، حَدَّثَنَا عَمَّارُ بْنُ رُزَيْقٍ، عَنْ أَبِي إِسْحَاقَ قَالَ: كُنْتُ مَعَ الأَسْوَدِ بْنِ يَزِيدَ جَالِسًا فِي الْـمَسْجِدِ الأَعْظَمِ، وَمَعَنَا الشَّعْبِيُّ، فَحَدَّثَ الشَّعْبِيُّ بِحَدِيثِ فَاطِمَةَ بِنْتِ قَيْسٍ، أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ لَمْ يَجْعَلْ لَهَا سُكْنَى وَلا نَفَقَةً. ثُمَّ أَخَذَ الأَسْوَدُ كَفًّا مِنْ حَصًى فَحَصَبَهُ بِهِ، فَقَالَ: وَيْلَكَ تُحَدِّثُ بِمِثْلِ هَذَا؟ قَالَ عُمَرُ: لا نَتْرُكُ كِتَابَ اللهِ وَسُنَّةَ نَبِيِّنَا صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ لِقَوْلِ امْرَأَةٍ، لاَ نَدْرِي لَعَلَّهَا حَفِظَتْ أَوْ نَسِيَتْ: لَهَا السُّكْنَى وَالنَّفَقَةُ. قَالَ اللهُ عَزَّ وَجَلَّ: «لا تُخْرِجُوهُنَّ مِنْ بُيُوتِهِنَّ وَلاَ يَخْرُجْنَ إِلاَّ أَنْ يَأْتِينَ بِفَاحِشَةٍ مُبَيِّنَةٍ».

Ahmad ibn ʿAbdah al-Ḍabbī narrated; Abu Dāwūd narrated; Sulaymān ibn Muʿādh narrated; from Abu Isḥāq; with the same

chain of transmission: **a similar text to the narration of Abu Ahmad from ʿAmmār ibn Ruzayq and his text.**

وَحَدَّثَنَا أَحْمَدُ بْنُ عَبْدَةَ الضَّبِّيُّ، حَدَّثَنَا أَبُو دَاوُدَ، حَدَّثَنَا سُلَيْمَانُ بْنُ مُعَاذٍ، عَنْ أَبِي إِسْحَاقَ، بِهَذَا الإِسْنَادِ: نَحْوَ حَدِيثِ أَبِي أَحْمَدَ عَنْ عَمَّارِ بْنِ رُزَيْقٍ، بِقِصَّتِهِ.

[3263–47]. (Dar al-Salam 3526) Abu Bakr ibn Abi Shaybah narrated:ᵛ Wakīʿ narrated; Sufyān narrated; from Abu Bakr ibn Abi al-Jahm ibn Ṣukhayr al-ʿAdawī. He said: **‘I heard Fāṭimah bint Qays say that her husband divorced her three times, and God’s Messenger allowed her neither lodging nor maintenance. She said: “God’s Messenger said to me: ‘When you have finished your waiting period, let me know’. I did let him know”. She was proposed to by Muʿāwiyah, Abu Jahm and Usāmah ibn Zayd. God’s Messenger said to her: “Muʿāwiyah is a poor man without money, and Abu Jahm is one who hits women. But Usāmah ibn Zayd is [better]”. She said, signalling with her hand: “Usāmah! Usāmah!” God’s Messenger said to her: “Obeying God and obeying His Messenger is better for you”. She said: “I married him and I was happy”.’**

وَحَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا وَكِيعٌ، حَدَّثَنَا سُفْيَانُ، عَنْ أَبِي بَكْرِ بْنِ أَبِي الْجَهْمِ بْنِ صُخَيْرٍ الْعَدَوِيِّ، قَالَ: سَمِعْتُ فَاطِمَةَ بِنْتَ قَيْسٍ تَقُولُ إِنَّ زَوْجَهَا طَلَّقَهَا ثَلاَثًا، فَلَمْ يَجْعَلْ لَهَا رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ سُكْنَى وَلا نَفَقَةً. قَالَتْ: قَالَ لِي رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «إِذَا حَلَلْتِ فَآذِنِينِي». فَآذَنْتُهُ. فَخَطَبَهَا مُعَاوِيَةُ، وَأَبُو جَهْمٍ، وَأُسَامَةُ بْنُ زَيْدٍ.

فَقَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «أَمَّا مُعَاوِيَةُ فَرَجُلٌ تَرِبٌ لاَ مَالَ لَهُ، وَأَمَّا أَبُو جَهْمٍ فَرَجُلٌ ضَرَّابٌ لِلنِّسَاءِ، وَلَكِنْ أُسَامَةُ بْنُ زَيْدٍ». فَقَالَتْ بِيَدِهَا هَكَذَا: أُسَامَةُ! أُسَامَةُ! فَقَالَ لَهَا رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «طَاعَةُ اللهِ وَطَاعَةُ رَسُولِهِ خَيْرٌ لَكِ». قَالَتْ: فَتَزَوَّجْتُهُ، فَاغْتَبَطْتُ.

[3264–48]. (Dar al-Salam 3527) Isḥāq ibn Manṣūr narrated to me: ʿAbd al-Raḥmān narrated; from Sufyān; from Abu Bakr ibn Abi al-Jahm. He said: **‘I heard Fāṭimah bint Qays say: “My husband, Abu ʿAmr ibn Ḥafṣ ibn al-Mughīrah sent me ʿAyyāsh ibn Abi Rabīʿah with a message that I am divorced, and he sent with him five *ṣāʿs* of dates and five *ṣāʿs* of barley. I said: ‘Is that all my maintenance and I am not supposed to stay my waiting period in your home?’ He said: ‘No’. I put on my clothes and went to God’s Messenger (peace be upon him). He asked: ‘How many times has he divorced you?’ I said: ‘Three’. He said: ‘He is right. You are not entitled to maintenance. Stay your waiting period in the home of your cousin, Ibn Umm Maktūm. He is a blind man, and you can take off your garment in his place. When your waiting period is over, let me know’. A number of men proposed to me, including Muʿāwiyah and Abu al-Jahm. The Prophet said: ‘Muʿāwiyah is a poor man, with little money and Abu al-Jahm is hard on women (or he hits women, or something like this), but you better have Usāmah ibn Zayd’.”’**

وَحَدَّثَنِي إِسْحَاقُ بْنُ مَنْصُورٍ، حَدَّثَنَا عَبْدُ الرَّحْمَنِ، عَنْ سُفْيَانَ، عَنْ أَبِي بَكْرِ بْنِ أَبِي الْجَهْمِ قَالَ: سَمِعْتُ فَاطِمَةَ بِنْتَ قَيْسٍ تَقُولُ: أَرْسَلَ إِلَىَّ

زَوْجِي أَبُو عَمْرِو بْنُ حَفْصِ بْنِ الْـمُغِيرَةِ عَيَّاشَ بْنَ أَبِي رَبِيعَةَ بِطَلاَقِي. وَأَرْسَلَ مَعَهُ بِخَمْسَةِ آصُعِ تَمْرٍ، وَخَمْسَةِ آصُعِ شَعِيرٍ. فَقُلْتُ: أَمَا لِي نَفَقَةٌ إِلاَّ هَذَا، وَلا أَعْتَدُّ فِي مَنْزِلِكُمْ؟ قَالَ: لا . قَالَتْ: فَشَدَدْتُ عَلَىَّ ثِيَابِي وَأَتَيْتُ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَقَالَ: «كَمْ طَلَّقَكِ» ؟ قُلْتُ: ثَلاَثًا. قَالَ: «صَدَقَ. لَيْسَ لَكِ نَفَقَةٌ. اعْتَدِّي فِي بَيْتِ ابْنِ عَمِّكِ ابْنِ أُمِّ مَكْتُومٍ، فَإِنَّهُ ضَرِيرُ الْبَصَرِ، تُلْقِي ثَوْبَكِ عِنْدَهُ. فَإِذَا انْقَضَتْ عِدَّتُكِ فَآذِنِينِي». قَالَتْ: فَخَطَبَنِي خُطَّابٌ مِنْهُمْ مُعَاوِيَةُ، وَأَبُو الْجَهْمِ . فَقَالَ النَّبِيُّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: إِنَّ مُعَاوِيَةَ تَرِبٌ خَفِيفُ الْحَالِ، وَأَبُو الْجَهْمِ مِنْهُ شِدَّةٌ عَلَى النِّسَاءِ، أَوْ يَضْرِبُ النِّسَاءَ، أَوْ نَحْوَ هَذَا. وَلَكِنْ عَلَيْكِ بِأُسَامَةَ بْنِ زَيْدٍ.

[3265–49]. (Dar al-Salam 3528) Isḥāq ibn Manṣūr narrated to me: Abu ʿĀṣim reported; Sufyān al-Thawrī narrated; Abu Bakr ibn Abi al-Jahm narrated to me. He said: **‘Abu Salamah ibn ʿAbd al-Raḥmān and I visited Fāṭimah bint Qays and asked her. She said: “I was married to Abu ʿAmr ibn Ḥafṣ ibn al-Mughīrah and he joined the expedition to Najran…”.’ He narrated the hadith similar to Ibn Mahdī’s narration but added: ‘She said: “I married him and God honoured me with Abu Zayd. God favoured me with Abu Zayd”.’**

وَحَدَّثَنِي إِسْحَاقُ بْنُ مَنْصُورٍ، أَخْبَرَنَا أَبُو عَاصِمٍ، حَدَّثَنَا سُفْيَانُ الثَّوْرِيُّ، حَدَّثَنِي أَبُو بَكْرِ بْنُ أَبِي الْجَهْمِ، قَالَ: دَخَلْتُ أَنَا وَأَبُو سَلَمَةَ بْنُ عَبْدِ الرَّحْمَنِ عَلَى فَاطِمَةَ بِنْتِ قَيْسٍ، فَسَأَلْنَاهَا فَقَالَتْ: كُنْتُ عِنْدَ أَبِي عَمْرِو بْنِ حَفْصِ بْنِ الْـمُغِيرَةِ، فَخَرَجَ فِي غَزْوَةِ نَجْرَانَ. وَسَاقَ الْحَدِيثَ بِنَحْوِ

حَدِيثِ ابْنِ مَهْدِيٍّ، وَزَادَ قَالَتْ: فَتَزَوَّجْتُهُ، فَشَرَّفَنِي اللهُ بِابْنِ زَيْدٍ. وَكَرَّمَنِي اللهُ بِابْنِ زَيْدٍ.

[3266–50]. (Dar al-Salam 3529) ʿUbaydullāh ibn Muʿādh al-ʿAnbarī narrated: my father narrated; Shuʿbah narrated; Abu Bakr narrated to me. He said: **‘Abu Salamah and I visited Fāṭimah bint Qays during the reign of Ibn al-Zubayr. She mentioned to us that her husband divorced her irrevocably…’ adding the same as Sufyān narrated.**

وَحَدَّثَنَا عُبَيْدُ اللهِ بْنُ مُعَاذٍ الْعَنْبَرِيُّ، حَدَّثَنَا أَبِي، حَدَّثَنَا شُعْبَةُ، حَدَّثَنِي أَبُو بَكْرٍ، قَالَ: دَخَلْتُ أَنَا وَأَبُو سَلَمَةَ عَلَى فَاطِمَةَ بِنْتِ قَيْسٍ زَمَنَ ابْنِ الزُّبَيْرِ، فَحَدَّثَتْنَا أَنَّ زَوْجَهَا طَلَّقَهَا طَلاَقًا بَاتًّا ... بِنَحْوِ حَدِيثِ سُفْيَانَ.

[3267–51]. (Dar al-Salam 3530) Ḥasan ibn ʿAlī al-Ḥulwānī narrated to me: Yaḥyā ibn Adam narrated; Ḥasan ibn Ṣāliḥ narrated; from al-Suddī; from al-Bahiy; from Fāṭimah bint Qays. She said: **‘My husband divorced me three times. God’s Messenger said I am not to get lodging or maintenance’.**

وَحَدَّثَنِي حَسَنُ بْنُ عَلِيٍّ الْحُلْوَانِيُّ، حَدَّثَنَا يَحْيَى بْنُ آدَمَ، حَدَّثَنَا حَسَنُ بْنُ صَالِحٍ، عَنِ السُّدِّيِّ، عَنِ الْبَهِيِّ، عَنْ فَاطِمَةَ بِنْتِ قَيْسٍ، قَالَتْ: طَلَّقَنِي زَوْجِي ثَلاَثًا، فَلَمْ يَجْعَلْ لِي رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ سُكْنَى وَلا نَفَقَةً.

[3268–52]. (Dar al-Salam 3531) Abu Kurayb narrated: Abu Usāmah narrated; from Hishām; my father narrated to me. He said:

‘Yaḥyā ibn Saʿīd ibn al-ʿĀṣ married the daughter of ʿAbd al-Raḥmān ibn al-Ḥakam. He then divorced her and ordered her to leave his home. ʿUrwah criticized them for doing so. They said: “Fāṭimah left”. ʿUrwah said: “I went to ʿĀ’ishah and told her this. She said: ‘It is not good of Fāṭimah to relate this story’.”’

وَحَدَّثَنَا أَبُو كُرَيْبٍ، حَدَّثَنَا أَبُو أُسَامَةَ، عَنْ هِشَامٍ، حَدَّثَنِي أَبِي قَالَ: تَزَوَّجَ يَحْيَى بْنُ سَعِيدِ بْنِ الْعَاصِ بِنْتَ عَبْدِ الرَّحْمَنِ بْنِ الْحَكَمِ، فَطَلَّقَهَا، فَأَخْرَجَهَا مِنْ عِنْدِهِ. فَعَابَ ذَلِكَ عَلَيْهِمْ عُرْوَةُ، فَقَالُوا: إِنَّ فَاطِمَةَ قَدْ خَرَجَتْ . قَالَ عُرْوَةُ: فَأَتَيْتُ عَائِشَةَ فَأَخْبَرْتُهَا بِذَلِكَ، فَقَالَتْ مَا لِفَاطِمَةَ بِنْتِ قَيْسٍ خَيْرٌ فِي أَنْ تَذْكُرَ هَذَا الْحَدِيثَ.

[3269–53]. (Dar al-Salam 3532) Muhammad ibn al-Muthannā narrated:[vi] Ḥafṣ ibn Ghiyāth narrated; Hishām narrated; from his father; from Fāṭimah bint Qays. She said: **‘I said: “Messenger of God, my husband has divorced me three times, and I fear that my privacy be invaded”.’ He said: ‘He [i.e., the Prophet] ordered her and she moved on’.**

وَحَدَّثَنَا مُحَمَّدُ بْنُ الْـمُثَنَّى، حَدَّثَنَا حَفْصُ بْنُ غِيَاثٍ، حَدَّثَنَا هِشَامٌ، عَنْ أَبِيهِ، عَنْ فَاطِمَةَ بِنْتِ قَيْسٍ قَالَتْ: قُلْتُ يَا رَسُولَ اللهِ زَوْجِي طَلَّقَنِي ثَلاَثًا، وَأَخَافُ أَنْ يُقْتَحَمَ عَلَيَّ . قَالَ: فَأَمَرَهَا فَتَحَوَّلَتْ.

[3270–54]. (Dar al-Salam 3533) Muhammad ibn al-Muthannā narrated:[vii] Muhammad ibn Jaʿfar narrated; Shuʿbah narrated; from ʿAbd al-Raḥmān ibn al-Qāsim; from his father; from ʿĀ’ishah; that

she said: **‘It is not good of Fāṭimah to mention this’. He said: ‘She meant her saying that no lodging or maintenance is due’.**

وَحَدَّثَنَا مُحَمَّدُ بْنُ الْـمُثَنَّى، حَدَّثَنَا مُحَمَّدُ بْنُ جَعْفَرٍ، حَدَّثَنَا شُعْبَةُ، عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْقَاسِمِ، عَنْ أَبِيهِ، عَنْ عَائِشَةَ أَنَّهَا قَالَتْ: مَا لِفَاطِمَةَ خَيْرٌ أَنْ تَذْكُرَ هَذَا . قَالَ: تَعْنِي قَوْلَهَا لا سُكْنَى وَلا نَفَقَةَ.

[3271–000]. (Dar al-Salam 3534) Isḥāq ibn Manṣūr narrated to me:[viii] ʿAbd al-Raḥmān reported; from Sufyān; from ʿAbd al-Raḥmān ibn al-Qāsim; from his father. He said: **‘ʿUrwah ibn al-Zubayr said to ʿĀ’ishah**: **“Have you not heard of so-and-so bint al-Ḥakam? Her husband divorced her irrevocably and she left his home”. She said: “How bad she did”. He said: “Have you not heard what Fāṭimah said?” She said: “It is not good of her to mention that”.’**

وَحَدَّثَنِي إِسْحَاقُ بْنُ مَنْصُورٍ، أَخْبَرَنَا عَبْدُ الرَّحْمَنِ، عَنْ سُفْيَانَ، عَنْ عَبْدِ الرَّحْمَن بْنِ الْقَاسِمِ، عَنْ أَبِيهِ قَالَ: قَالَ عُرْوَةُ بْنُ الزُّبَيْرِ لِعَائِشَةَ: أَلَمْ تَرَيْ إِلَى فُلاَنَةَ بِنْتِ الْحَكَمِ: طَلَّقَهَا زَوْجُهَا الْبَتَّةَ، فَخَرَجَتْ. فَقَالَتْ: بِئْسَمَا صَنَعَتْ . فَقَالَ أَلَمْ تَسْمَعِي إِلَى قَوْلِ فَاطِمَةَ؟ فَقَالَتْ: أَمَا إِنَّهُ لاَ خَيْرَ لَهَا فِي ذِكْرِ ذَلِكَ.

Text Explanation

This chapter focuses on the case of Fāṭimah bint Qays in its various versions. She mentions that Abu ʿAmr ibn Ḥafṣ divorced her. This is how the majority of scholars report his name. Yet he is mentioned as Abu Ḥafṣ ibn ʿAmr, or Abu Ḥafṣ ibn al-Mughīrah. They differ concerning his name with the majority saying it was ʿAbd al-Ḥamīd, while al-Nasā'ī said his name was Ahmad, and other scholars have said that his name was the same as his appellation, Abu ʿAmr.

Hadith masters agree that he divorced her, and reliable narrators agree, in their different wording, that he divorced her thrice, or irrevocably or the last of the three divorces. A different hadith gives the impression that she was still married to him when he died, but scholars say that this report is not clear, or mistaken. We shall clarify the matter, God willing. The different versions express her divorce differently, saying: three times, irrevocably, the last of three divorces, her remaining divorce, or without mentioning a number. To reconcile these versions, we say that he had earlier divorced her twice and this was the last of three divorces. Thus, the reports that he divorced her mentioning no number, or once, or the third divorce give a clear meaning. He divorced her irrevocably means that this time her divorce became irrevocable. The report that he divorced her three times means that this was the last of three divorces.

In hadith No. 3250, the Prophet tells Fāṭimah that she was not entitled to maintenance, and in hadith No. 3251 he tells her that she receives neither maintenance nor lodging. Scholars do, however, differ about whether or not a woman who is irrevocably divorced and is not pregnant is entitled to lodging and maintenance. ʿUmar ibn al-Khaṭṭāb, Abu Ḥanīfah and others said that she is entitled to both lodging in her husband's home and maintenance. Ibn ʿAbbās and Ahmad said she is not entitled to either. Mālik, al-Shāfiʿī and others said that she is entitled to lodging, but not maintenance. Those who said that she is entitled to both support their

argument citing the Qur'anic verse: 'Let them dwell wherever you dwell, according to your means'. (65: 6) This is a clear order that lodging and maintenance is due because she is still unmarriageable until her waiting period is over. In hadith No. 3262 ʿUmar ibn al-Khaṭṭāb said: 'We shall not abandon God's Book and the Prophet's Sunnah on the basis of what one woman says, when we do not know whether she has kept [the case] in memory or forgotten it'.

Other scholars have said what is in God's Book is the entitlement for lodging. Al-Dāraquṭnī said that the words 'and the Prophet's Sunnah' is an uncertain addition, and it is not mentioned by a number of reliable narrators. Scholars who say that a thrice-divorced woman is entitled neither to lodging nor maintenance base their view on the hadith of Fāṭimah bint Qays. The ones who say that she is entitled to lodging but not to maintenance cite as their evidence the Qur'anic order: 'Let them dwell wherever you dwell, according to your means'. (65: 6) Their argument for the non-entitlement of maintenance is based on the case of Fāṭimah bint Qays and the apparent meaning of the Qur'anic order: 'If they are with child, maintain them until they have delivered their burden'. (65: 6) This is understood to mean that if they are not pregnant, no maintenance is due to them. These scholars respond to the reason for non-entitlement to maintenance stated in Fāṭimah's hadith quoting Saʿīd ibn al-Musayyib and others. They say that she was an outspoken woman and that she spoke harshly to her in-laws. Therefore, the Prophet ordered her to move to Ibn Umm Maktūm's home. It is also said that the reason for leaving was that she felt apprehensive in that home, as mentioned in hadith No. 3269, where she said: 'I fear that my privacy be invaded'. Yet nothing of these interpretations is acceptable as reason for non-entitlement to maintenance, but God knows best.

A pregnant woman who is irrevocably divorced has the right to lodging and maintenance. Likewise, the one whose divorce is revocable has the right to both, according to the unanimous view. It is unanimously agreed

upon that a widow is not entitled to maintenance. However, the more correct view of our school is that lodging is her right. If she is pregnant, she is also not entitled to maintenance. Some of our scholars say that she is entitled to it, but this is wrong, and God knows best.

In the first hadith, No. 3250, Fāṭimah mentions that her husband divorced her irrevocably in his absence and that his deputy sent her some barley, which she disliked. This shows that divorce can be done when the man is away from his wife, and that it is permissible to give what is due to others through a deputy. Scholars are unanimous that both these rulings are valid.

In the same hadith, the Prophet orders Fāṭimah to spend her waiting period in Umm Sharīk's home, then he said to her that Umm Sharīk was visited by his Companions. He therefore moved her to Ibn Umm Maktūm's home. Scholars said that Umm Sharīk belonged to the ʿĀmir clan of the Quraysh tribe. Yet it is said that she was an Anṣārī woman. Towards the end of his book, Muslim mentions that she was from the Anṣār and her name was Ghuzayyah. It is also said that her name was Ghuzaylah. She was the daughter of Dāwūd ibn ʿAwf, ibn ʿAmr ibn ʿĀmir ibn Rawāḥah ibn Ḥujayr ibn ʿAbd ibn Muʿayṣ ibn ʿĀmir ibn Lu'ay ibn Ghālib. Yet her ancestry is given differently. She was also said to have been the woman who gifted herself to the Prophet, but it is also said that the woman who did that was someone else.

This hadith means that some of the Prophet's Companions frequently visited Umm Sharīk, as she was a devout woman. The Prophet felt that Fāṭimah might find staying with her during her waiting period troublesome as she would always need to be vigilant so that visitors did not see her and she did not see them. Therefore, he ordered her to stay with Ibn Umm Maktūm, as he could not see her, and he was not visited by as many people as Umm Sharīk. Some scholars argue that this hadith provides evidence that it is permissible for a woman to look at a man who is a stranger to her. This is a weak view. The correct one which is endorsed by the majority of

scholars and most of the Prophet's Companions is that looking at a stranger of the opposite sex is forbidden for both men and women, as God says: 'Tell believing men to lower their gaze…' (24: 30), 'And tell believing women to lower their gaze…' (24: 31). Moreover, temptation occurs to both. Just like a man may be tempted by a woman, she may be tempted by him. It is further indicated from the Sunnah by the hadith narrated by Nabhān, Umm Salamah's mawlā, quoting her that she and Maymūnah were with the Prophet when Ibn Umm Maktūm entered. The Prophet ordered them to go behind the screen. They said that he was blind and could not see them. The Prophet said to them: 'Are you two also blind?' This hadith is related by Abu Dāwūd and al-Tirmidhī and graded 'good'. Those who discount it have no valid argument.[xi] The hadiths mentioning Fāṭimah bint Qays and her staying at Ibn Umm Maktūm's home do not include permission for her to look at him. What these hadiths mean is that she was safe there from being seen by others. Given she was included in the order to lower her gaze, she could guard against looking, without difficulty, which was the opposite of what would have been encountered at Umm Sharīk's home.

The Prophet tells Fāṭimah to let him know when her waiting period is over. This means that it is permissible to give a hint of a proposal to an irrevocably divorced woman. This is the correct view of our school. The Prophet also tells her that 'Abu al-Jahm always carries his stick on his shoulder'. This is interpreted in two well-known ways: the first is that he is a frequent traveller, and the other is that he often hits women. This second interpretation is more correct, in view of hadith No. 3263 in which the Prophet says that Abu Jahm is 'one who hits women'. This shows that it is permissible to mention a person's negative qualities when one is consulted and asked for advice. This does not constitute forbidden backbiting, but it is a fulfilment of one's duty of giving honest advice. Scholars say that backbiting is permissible in six situations, one of which is when advice is

requested. I mentioned all these, together with the evidence supporting each in my books *al-Adhkār* and *Riyāḍ al-Ṣaliḥīn*.

It should be noted that Abu al-Jahm mentioned in these hadiths is the same as the one mentioned in the hadith speaking of the Prophet's Anbijānī garment. He is different from Abu al-Juhaym who is mentioned in the hadith concerning dry ablution, i.e., *tayammum*, and the one concerning going across the path in front of a praying person. This person, Abu al-Jahm, was a son of Ḥudhayfah and belonged to the ʿAdiy clan of the Quraysh. *Qadi* ʿIyāḍ stated that all narrators mention him without giving his affiliation, except Yaḥyā ibn Yaḥyā al-Andalulsī, one of the narrators of Mālik's *al-Muwaṭṭa'*, naming him Abu Jahm ibn Hishām, but this is wrong as none of the Prophet's Companions were named Abu Jahm ibn Hishām. None of the narrators of *al-Muwaṭṭa'* and other scholars have endorsed what Yaḥyā said.

It is permissible to express one's meaning figuratively, as this is clear in hadith No. 3250 when the Prophet said of Abu Jahm that 'he always carries his stick on his shoulder' and says of Muʿāwiyah that he is poor and has no money. Yet it was known that Muʿāwiyah had something even though it was very little. Abu al-Jahm, on the other hand, did not carry his stick when he went to sleep or when he ate, and in similar situations. However, since Abu al-Jahm often carried his stick and Muʿāwiyah had very little, it was permissible to describe them in these terms. Our scholars have stated this, and I explained it at the end of my book *al-Adhkār*.

In the same hadith, Fāṭimah says: 'When I finished my waiting period, I told him that Muʿāwiyah ibn Abi Sufyān and Abu Jahm had proposed to marry me'. This is clear that the one who proposed to her was Muʿāwiyah ibn Abi Sufyān ibn Ḥarb, and it is right. Some said that it was a different person named Muʿāwiyah, but this is clearly mistaken, and I am mentioning this for clarification.

The Prophet gives Fāṭimah his advice: '"Marry Usāmah ibn Zayd". I disliked him. He again said: "Marry Usāmah". I married him, and God

made it a good marriage and I was happy'. The Prophet ordered her to marry Usāmah because he was well aware of his firm faith, fine merits, good manners and superior qualities. She initially disliked the idea of marrying him because he was a *mawlā* and was of very dark complexion. The Prophet repeated his advice, knowing it was better for her to marry such a man. She acted on the Prophet's advice and later commented that it was a fine marriage and she was happy. The Prophet confirmed his advice telling her in hadith No. 3263: 'obeying God and obeying His Messenger is better for you'.

In hadith No. 3253 the Prophet sends a message to Fāṭimah saying: 'Do not precipitate me regarding yourself'. This is a hint about a future marriage proposal. This is perfectly permissible if the woman is observing a waiting period after the death of her husband and also if she is thrice divorced. A flimsy view suggests that it is permissible in the waiting period after a revocable divorce, but the correct view is the first.

In hadith No. 3257, the Prophet agrees to Fāṭimah's request and gives her permission to move out. This is understood to mean that the permission was given for a valid reason, such as her dispute with her in-laws, or her fear of invasion of privacy, etc. We have already mentioned this. If there is no such need, it is not permissible for a woman to move, or to be moved out during her waiting period. God says in the Qur'an: 'Do not drive them out of their homes, nor shall they themselves leave, unless they commit a flagrant indecency'. (65: 1) Ibn ʿAbbās and ʿĀ'ishah said: 'a flagrant indecency in this context means being rebellious and ill-mannered'. It is also said that it means being verbally abusive of her in-laws. Some suggested that it means committing adultery and this requires that the woman is taken out to enforce the mandatory punishment on her and bringing her back home.

In hadith No. 3259, al-Shaʿbī, a prominent scholar of the *tābiʿīn* generation, says: 'We visited Fāṭimah bint Qays and she presented to us Ibn Ṭāb dates and gave us the Sult drink'. Ibn Ṭāb is the name of a type of

dates. We mentioned earlier that the dates of Madinah are of 120 types. Sult is a type of grain which is similar to wheat and barley. Hence our scholars have three different views on how to treat it: (1) it is a grain, different from both wheat and barley; (2) it is wheat; and (3) it is barley. This difference of views is useful because it opens the way to barter it for the same measure of either wheat or barley. On the other hand, it can be added to either or both to complete the threshold of zakat. This hadith shows that it is desirable to offer something to one's guest, and that it is desirable when women are visited by good men, but God knows best.

The hadith continues: 'I asked her about a thrice-divorced woman: "where does she spend her waiting period? She said: "My husband divorced me three times and the Prophet (peace be upon him) permitted me to stay with my people during my waiting period".' This is understood to mean that the Prophet permitted her to move out because of a valid reason, as we have already explained.

In hadith No. 3261 the Prophet tells Fāṭimah to move in with her cousin, ʿAmr ibn Umm Maktūm. This is how it occurs in this instance, and also later in Muslim's *Ṣaḥīḥ*, where the folllowing is added: 'a man from Bani Fihr, the branch to which she herself belonged'. *Qadi* ʿIyāḍ said: 'What is better known is different. They are not from the same branch, as she was from the branch of Muḥārib ibn Fihr and he belonged to the branch of ʿĀmir ibn Lu'ay'. He was her cousin in a manner of speech, as they meet in Fihr, a distant ancestor of both. Different names are given to Ibn Umm Maktūm, with ʿAmr and ʿAbdullāh being better known, but others are also suggested.

In hadith No. 3265, Fāṭimah says about her subsequent marriage: 'I married him, and God honoured me with Abu Zayd. God favoured me with Abu Zayd'. This is how the name occurs in some manuscripts, Abu Zayd, as an appellation. In other manuscripts, it is Ibn Zayd in both places. *Qadi* ʿIyāḍ claims that the latter is reported by a larger number of narrators. [The two words are very similar in their written forms. Abu means 'father of' and

Ibn means ‘son of’.] My own view is that both are correct. The man she married was Usāmah ibn Zayd ibn Ḥārithah, and his appellation was Abu Zayd, but he was also called Abu Muhammad.

As stated in these hadiths, the case of Fāṭimah bint Qays gives rise to many very interesting points:

1. Divorce by an absent man is valid.
2. Appointing a deputy to receive and give what is due is permissible.
3. No maintenance is due in irrevocable divorce, and some scholars say neither maintenance nor lodging.
4. It is perfectly appropriate to listen to the speech of a stranger, man or woman, when they are seeking a fatwa, or for some other purpose.
5. It is permissible for a woman observing a waiting period to go out for some need.
6. It is desirable for men to visit devout women, provided that no forbidden seclusion between one man and one woman occurs. The Prophet said in reference to Umm Sharīk: ‘My Companions visit her’.
7. It is permissible to give a woman observing a waiting period after an irrevocable divorce a hint of a future marriage proposal.
8. When a proposal of marriage has not yet been accepted it is permissible that another man makes a different proposal. Fāṭimah told the Prophet that Muʿāwiyah, Abu al-Jahm and others had proposed marriage to her.
9. Mentioning an absent person’s negative qualities which he would not like being referenced is permissible when it is done as part of advice. It is not considered backbiting in this case.
10. It is permissible to express one’s meaning figuratively. The Prophet said of one person, ‘he always carries his stick on his shoulder’, and of another, ‘he has no money’.

11. It is desirable to inform a person of what is better for him or her, even if they dislike it, and to repeat this if needed. Fāṭimah said that the Prophet said to her: ‘Marry Usāmah, but I disliked him. He said again: “Marry Usāmah”, and I married him’.
12. It is important to act on the advice of devout and sagacious people. The outcome is bound to be good.
13. It is permissible to marry someone of a lower social status if the wife and her guardian accept him. Fāṭimah belonged to the Quraysh while Usāmah was a *mawlā*.
14. One should be keen to associate oneself with devout and virtuous people, even if they are of lower social status.
15. It is permissible for one scholar to object to the fatwa of another scholar if the latter’s fatwa is contrary to a text or generalizes what is of limited significance. ʿĀ’ishah objected to Fāṭimah because she generalized the view that a divorcee is not entitled to lodging if her divorce is irrevocable. Fāṭimah moved out for a valid reason, such as her fear of invaded privacy, or her ill-mannered speaking, or some other reason.
16. It is commendable to be hospitable to one’s guests, offering some food and drink, whether they are men or women.

And God knows best.

i. Related by Abu Dāwūd, 2284, 2285, 2286, 2287 and 2289; al-Nasā’ī, 3244, 3245, 3405 and 3548.
ii. This hadith is attached to the previous one in Dar al-Salam’s edition.
iii. Related by Abu Dāwūd, 2290; al-Nasā’ī, 3222 and 3554.
iv. Related by Abu Dāwūd, 2288 and 2291; al-Tirmidhī, 1180; al-Nasā’ī, 3403, 3404, 3550 and 3551; Ibn Mājah, 2024 and 2036.
v. Related by al-Tirmidhī, 1135; al-Nasā’ī, 3418 and 3553; Ibn Mājah, 2035.

vi. Related by al-Nasā’ī, 3549; Ibn Mājah, 2033.

vii. Related by al-Bukhari, 5323 and 5324.

viii. Related by al-Bukhari, 5326.

ix. Al-Nawawī’s view on this point is perhaps a little too strict. ‘Lowering one’s gaze’ does not mean a prohibition of looking. The hadith about the Prophet’s wives and Ibn Umm Maktūm is explained by scholars in a different way.

CHAPTER 7

GOING OUT DURING THE WAITING PERIOD

[3272–55]. (Dar al-Salam 3535) Muhammad ibn Ḥātim ibn Maymūn narrated to me:[i] Yaḥyā ibn Saʿīd narrated; from Ibn Jurayj [H]. Also, Muhammad ibn Rāfiʿ narrated; ʿAbd al-Razzāq narrated; Ibn Jurayj reported [H]. Ḥārūn ibn ʿAbdullāh narrated to me (his text); Ḥajjāj ibn Muhammad narrated; he said: Ibn Jurayj said: Abu al-Zubayr reported to me; that he heard Jābir ibn ʿAbdullāh say: **‘My maternal aunt was divorced. She wanted to gather [the fruit of] her date trees. A man rebuked her for wanting to go out. She went to the Prophet (peace be upon him) and he said: “Yes, you go and gather your fruit. You may give some charity or do some kindness”.’**

وَحَدَّثَنِي مُحَمَّدُ بْنُ حَاتِمِ بْنِ مَيْمُونٍ، حَدَّثَنَا يَحْيَى بْنُ سَعِيدٍ، عَنِ ابْنِ جُرَيْجٍ، ح. وَحَدَّثَنَا مُحَمَّدُ بْنُ رَافِعٍ، حَدَّثَنَا عَبْدُ الرَّزَّاقِ، أَخْبَرَنَا ابْنُ جُرَيْجٍ، ح. وَحَدَّثَنِي هَارُونُ بْنُ عَبْدِ اللهِ (وَاللَّفْظُ لَهُ)، حَدَّثَنَا حَجَّاجُ بْنُ مُحَمَّدٍ قَالَ: قَالَ ابْنُ جُرَيْجٍ: أَخْبَرَنِي أَبُو الزُّبَيْرِ، أَنَّهُ سَمِعَ جَابِرَ بْنَ عَبْدِ اللهِ يَقُولُ: طُلِّقَتْ خَالَتِي فَأَرَادَتْ أَنْ تَجُدَّ نَخْلَهَا، فَزَجَرَهَا رَجُلٌ أَنْ تَخْرُجَ. فَأَتَتِ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَقَالَ: «بَلَى، فَجُدِّي نَخْلَكِ. فَإِنَّكِ عَسَى أَنْ تَصَدَّقِي، أَوْ تَفْعَلِي مَعْرُوفًا».

Text Explanation

This hadith provides evidence that an irrevocably divorced woman may go out during her waiting period to attend to some need. The view of Mālik, al-Thawrī, al-Layth, al-Shāfiʿī, Ahmad and others is that she may go out during the day if she needs to. According to all these, a widow in her waiting period may also go out. Abu Ḥanīfah shares their view with regard to a widow, but in the case of an irrevocably divorced woman he said that she may not go out, neither during the day nor during the night.

The hadith shows that it is encouraged to give some charity out of the gathered dates, and to give gifts. It is also desirable to give the owner a hint to do so and to remind people of doing what is good and charitable, but God knows best.

i. Related by Abu Dāwūd, 2297; al-Nasā’ī, 3552; Ibn Mājah, 2034.

CHAPTER 8

THE WAITING PERIOD ENDS AT CHILDBIRTH

[3273–56]. (Dar al-Salam 3536) Abu al-Ṭāhir and Ḥarmalah ibn Yaḥyā narrated to me (in closely similar wording):[i] Ibn Wahb (Ḥarmalah said: ‘narrated’ and Abu al-Ṭāhir said: ‘reported’); Yūnus ibn Yazīd narrated to me; from Ibn Shihāb; ʿUbaydullāh ibn ʿAbdullāh ibn ʿUtbah ibn Masʿūd narrated to me; that **‘His father wrote to ʿUmar ibn ʿAbdullāh ibn al-Arqam al-Zuhrī telling him to visit Subayʿah bint al-Ḥārith al-Aslamiyyah and ask her about her hadith and what God’s Messenger (peace be upon him) told her when she requested his ruling. ʿUmar ibn ʿAbdullāh wrote back to ʿAbdullāh ibn ʿUtbah telling him that Subayʿah informed him that she was married to Saʿd ibn Khawlah who belonged to [the clan of] Banī ʿĀmir ibn Lu’ay. He took part in the Battle of Badr and he died during the Farewell Pilgrimage when she was pregnant. It was only a short while after his death that she gave birth. When she finished her period of confinement, she adorned herself for possible proposals. Abu al-Sanābil ibn Baʿkak (a man from the ʿAbd al-Dār clan) visited her. He said: “How come that I see you adorned! Perhaps you are hoping to get married. By God,**

you shall not be married before you have completed four months and ten days”.

Subayʿah said: “When he said this to me, I put on my clothes in the evening and went to God’s Messenger (peace be upon him) and asked him about this. He told me that I had finished my waiting period when I gave birth. He told me to get married if I wished”.’

Ibn Shihāb said: **‘In my view, there is no harm if a woman gets married once she has given birth, even though she is still bleeding. However, her new husband must not consummate the marriage until she has completely cleansed herself [from postnatal discharge]’.**

وَحَدَّثَنِي أَبُو الطَّاهِرِ، وَحَرْمَلَةُ بْنُ يَحْيَى (وَتَقَارَبَا فِي اللَّفْظِ)، (قَالَ حَرْمَلَةُ حَدَّثَنَا وَقَالَ أَبُو الطَّاهِرِ أَخْبَرَنَا) ابْنُ وَهْبٍ، حَدَّثَنِي يُونُسُ بْنُ يَزِيدَ، عَنِ ابْنِ شِهَابٍ، حَدَّثَنِي عُبَيْدُ اللهِ بْنُ عَبْدِ اللهِ بْنِ عُتْبَةَ بْنِ مَسْعُودٍ، أَنَّ أَبَاهُ كَتَبَ إِلَى عُمَرَ بْنِ عَبْدِ اللهِ بْنِ الأَرْقَمِ الزُّهْرِيِّ يَأْمُرُهُ أَنْ يَدْخُلَ عَلَى سُبَيْعَةَ بِنْتِ الْحَارِثِ الأَسْلَمِيَّةِ، فَيَسْأَلَهَا عَنْ حَدِيثِهَا، وَعَمَّا قَالَ لَهَا رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ حِينَ اسْتَفْتَتْهُ. فَكَتَبَ عُمَرُ بْنُ عَبْدِ اللهِ إِلَى عَبْدِ اللهِ بْنِ عُتْبَةَ يُخْبِرُهُ، أَنَّ سُبَيْعَةَ أَخْبَرَتْهُ أَنَّهَا كَانَتْ تَحْتَ سَعْدِ بْنِ خَوْلَةَ، وَهُوَ فِي بَنِي عَامِرِ بْنِ لُؤَيٍّ. وَكَانَ مِمَّنْ شَهِدَ بَدْرًا، فَتُوُفِّيَ عَنْهَا فِي حَجَّةِ الْوَدَاعِ، وَهْىَ حَامِلٌ. فَلَمْ تَنْشَبْ أَنْ وَضَعَتْ حَمْلَهَا بَعْدَ وَفَاتِهِ. فَلَـمَّا تَعَلَّتْ مِنْ نِفَاسِهَا تَجَمَّلَتْ لِلْخُطَّابِ. فَدَخَلَ عَلَيْهَا أَبُو السَّنَابِلِ بْنُ بَعْكَكٍ - رَجُلٌ مِنْ بَنِي عَبْدِ الدَّارِ، فَقَالَ لَهَا:

مَا لِي أَرَاكِ مُتَجَمِّلَةً؟ لَعَلَّكِ تَرْجِينَ النِّكَاحَ؟ إِنَّكِ وَاللهِ مَا أَنْتِ بِنَاكِحٍ حَتَّى تَمُرَّ عَلَيْكِ أَرْبَعَةُ أَشْهُرٍ وَعَشْرٌ .

قَالَتْ سُبَيْعَةُ: فَلَـمَّا قَالَ لِي ذَلِكَ، جَمَعْتُ عَلَيَّ ثِيَابِي حِينَ أَمْسَيْتُ، فَأَتَيْتُ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَسَأَلْتُهُ عَنْ ذَلِكَ، فَأَفْتَانِي بِأَنِّي قَدْ حَلَلْتُ حِينَ وَضَعْتُ حَمْلِي. وَأَمَرَنِي بِالتَّزَوُّجِ إِنْ بَدَا لِي .

قَالَ ابْنُ شِهَابٍ: فَلاَ أَرَى بَأْسًا أَنْ تَتَزَوَّجَ حِينَ وَضَعَتْ، وَإِنْ كَانَتْ فِي دَمِهَا، غَيْرَ أَنْ لاَ يَقْرَبُهَا زَوْجُهَا حَتَّى تَطْهُرَ.

[3274–57]. (Dar al-Salam 3537-3538) Muhammad ibn al-Muthannā al-ʿAnazī narrated:[ii] ʿAbd al-Wahhāb narrated; he said: I heard Yaḥyā ibn Saʿīd; Sulaymān ibn Yasār reported to me; that **‘Abu Salamah ibn ʿAbd al-Raḥmān and Ibn ʿAbbās met at Abu Hurayrah’s. They were discussing the case of a woman who gives birth a few days after her husband’s death. ‘Ibn ʿAbbās said: “Her waiting period lasts until the end of the later date”. Abu Salamah said: “Her waiting period is over”. They were in dispute over the question. Abu Hurayrah said: “I am with my nephew (meaning Abu Salamah)”. They sent Kurayb, Ibn ʿAbbās’ *mawlā*, to Umm Salamah to ask her about this. He returned and told them that Umm Salamah said that Subayʿah al-Aslamiyyah gave birth a few nights after her husband’s death. She mentioned this to God’s Messenger (peace be upon him) and he told her that she could get married’.**

حَدَّثَنَا مُحَمَّدُ بْنُ الْـمُثَنَّى الْعَنَزِيُّ، حَدَّثَنَا عَبْدُ الْوَهَّابِ، قَالَ سَمِعْتُ يَحْيَى بْنَ سَعِيدٍ، أَخْبَرَنِي سُلَيْمَانُ بْنُ يَسَارٍ، أَنَّ أَبَا سَلَمَةَ بْنَ عَبْدِ الرَّحْمَنِ وَابْنَ عَبَّاسٍ اجْتَمَعَا عِنْدَ أَبِي هُرَيْرَةَ، وَهُمَا يَذْكُرَانِ الْـمَرْأَةَ تُنْفَسُ بَعْدَ وَفَاةِ زَوْجِهَا بِلَيَالٍ . فَقَالَ ابْنُ عَبَّاسٍ: عِدَّتُهَا آخِرُ الأَجَلَيْنِ . وَقَالَ أَبُو سَلَمَةَ: قَدْ حَلَّتْ . فَجَعَلاَ يَتَنَازَعَانِ ذَلِكَ. قَالَ: فَقَالَ أَبُو هُرَيْرَةَ أَنَا مَعَ ابْنِ أَخِي، (يَعْنِي أَبَا سَلَمَةَ)، فَبَعَثُوا كُرَيْبًا - مَوْلَى ابْنِ عَبَّاسٍ - إِلَى أُمِّ سَلَمَةَ يَسْأَلُهَا عَنْ ذَلِكَ. فَجَاءَهُمْ فَأَخْبَرَهُمْ أَنَّ أُمَّ سَلَمَةَ قَالَتْ: إِنَّ سُبَيْعَةَ الأَسْلَمِيَّةَ نُفِسَتْ بَعْدَ وَفَاةِ زَوْجِهَا بِلَيَالٍ، وَإِنَّهَا ذَكَرَتْ ذَلِكَ لِرَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، فَأَمَرَهَا أَنْ تَتَزَوَّجَ.

Muhammad ibn Rumḥ narrated: al-Layth reported [H]. Also, Abu Bakr ibn Abi Shaybah and ʿAmr al-Nāqid narrated; they said: Yazīd ibn Ḥārūn narrated; both from Yaḥyā ibn Saʿīd; with this chain of transmission: **the same text, except that al-Layth said in his narration that they sent to Umm Salamah, without naming Kurayb.**

وَحَدَّثَنَاهُ مُحَمَّدُ بْنُ رُمْحٍ، أَخْبَرَنَا اللَّيْثُ، ح. وَحَدَّثَنَاهُ أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، وَعَمْرٌو النَّاقِدُ قَالا: حَدَّثَنَا يَزِيدُ بْنُ هَارُونَ، كِلاَهُمَا عَنْ يَحْيَى بْنِ سَعِيدٍ، بِهَذَا الإِسْنَادِ . غَيْرَ أَنَّه قَالَ فِي حَدِيثِهِ: فَأَرْسَلُوا إِلَى أُمِّ سَلَمَةَ، وَلَمْ يُسَمِّ كُرَيْبًا.

Text Explanation

The three hadiths in this chapter mention the case of Subayʿah who gave birth a few days after her husband's death and the Prophet said that her waiting period was over and that she could remarry. The great majority of early and later scholars have upheld this and said that the waiting period of a pregnant woman is the birth of her child, even if this happens a few moments after her husband's death, and before his body is prepared for burial. She can get married straightaway. This view is shared by Mālik, al-Shāfiʿī, Abu Ḥanīfah, Ahmad and all scholars, with the exception of one report attributing to ʿAlī, Ibn ʿAbbās and Suḥnūn of the Mālikī School a statement that her waiting period lasts until the end of the farthest of the two terms: four months and ten days, or the birth of her child. Another report mentions that al-Shaʿbī, al-Ḥasan, Ibrāhīm al-Nakhaʿī and Ḥammād said that her marriage is not valid until she has finished her postnatal discharge and cleansed herself.

The view of the majority of scholars is based on the hadith relating Subayʿah's case. They consider it as a qualification and limitation of the verse that says: 'Those of you who die leaving wives behind, their wives shall wait, by themselves, for four months and ten days'. (2: 234) It also explains that the Qur'anic statement, 'As for those who are with child, their waiting term shall end when they deliver their burden', (65: 4) applies to any woman in a waiting period, whether a divorcee or a widow, and it should be understood in its general meaning.

Scholars sharing the majority view said that the general import of these two verses is in conflict. When two general statements are in conflict, we look for some evidence that limits one of them. In this case, we have the hadith mentioning Subayʿah's case, which provides such limitation as it makes the term 'four months and ten days' applicable to a woman who is not pregnant.

The evidence countering the view of al-Shaʿbī and others is the hadith related by Muslim in this chapter, in which Subayʿah says that the Prophet (peace be upon him) ‘told me that I had finished my waiting period when I gave birth’. This is a clear statement that the waiting period is over once the child is born. If they cite that this took place ‘when she finished her period of confinement’, meaning that she was cleansed, the answer is that this informs us of the time when she put her question. As such, it gives them no argument. The clear evidence is the Prophet’s words that her waiting period ended when she gave birth. The Prophet did not attach this to the cleansing after delivery.

Scholars, including those of our school, said that the waiting period is over once delivery has taken place, whether the woman delivers one child or more, completely or incompletely formed, or even a morsel of flesh, if it has some human form, whether it is a subtle form known to women only or clear and recognizable by anyone. The evidence in support of this is the fact that Subayʿah’s case was general, and no question was asked about the shape or form of what she delivered.

The hadith mentions that it was Abu al-Sanābil who objected to Subayʿah adorning herself. His name was ʿAmr, but his name was also given by Ibn Makūlā as Ḥabbah or Ḥannah. On the other hand, his affiliation was given by Ibn al-Kalbī and Ibn ʿAbd al-Barr as Abu al-Sanābil ibn Baʿkak, ibn al-Ḥajjāj ibn al-Ḥārith, ibn al-Sabbāq ibn ʿAbd al-Dār, but a different chain of ancestry was also given.

The hadith mentions that she gave birth ‘a few nights’ after her husband’s death. It is said that it was a month after his death, or twenty-five days. Figures less than that are also suggested, but God knows best.

i. Related by al-Bukhari, 3991 and in a shorter version, 5319; Abu Dāwūd, 2306; al-Nasā'ī, 3518, 3519 and 3520; Ibn Mājah, 2028.

ii. Related by al-Bukhari, 4909; al-Tirmidhī, 1194; al-Nasā'ī, 3511, 3512, 3513, 3514 and 3515.

CHAPTER 9

ON MOURNING

[3275–58]. (Dar al-Salam 3539) Yaḥyā ibn Yaḥyā narrated: he said:[i] I read out to Mālik; from ʿAbdullāh ibn Abi Bakr; from Ḥumayd ibn Nāfiʿ; from Zaynab bint Abi Salamah; that she related to him these three hadiths. He said: Zaynab said: **‘I went into Umm Ḥabībah’s, the Prophet’s wife, when her father, Abu Sufyān, died. Umm Ḥabībah called for some perfume that includes yellowness, a mixed perfume or some other. A maid applied it, then she rubbed with it the lower part of her two cheeks. She then said: “By God, I have no need for perfume, but I heard God’s Messenger (peace be upon him) say on the platform: ‘It is unlawful for any woman who believes in God and the Last Day to mourn for a deceased person more than three days, except for her husband: four months and ten days’.”’**

Zaynab said: ‘I later went to Zaynab bint Jaḥsh when her brother passed away. She called for some perfume and applied it. She then said: “By God, I have no need for perfume, but I heard God’s Messenger (peace be upon him) say on the platform: ‘It is unlawful for any woman who believes in God and the Last Day to mourn for a deceased person more than three days, except for her husband: four months and ten days’.”’

Zaynab said: ‘I heard my mother, Umm Salamah, say: “A woman came to God’s Messenger (peace be upon him) and said: ‘Messenger of God, my daughter’s husband has passed away, and now she has a complaint in her eye. Can we apply kohl to it?” The Prophet said: “No”, two or three times, repeating “No”. He then said: “It is only four months and ten [days]. In the days of ignorance, a woman used to throw a piece of dung at the end of a full year”.’”’

Ḥumayd said: ‘I said to Zaynab: “What does ‘throw a dung at the end of a full year’ mean?” Zaynab said: “When a husband died, his widow would go into a small hut, put on her worst clothes, and would not touch any perfume or good smell for a full year. Then she would be brought an animal: a donkey or a sheep or a bird to rub herself with. Rarely would the animal she rubbed herself against survive for long. Then she would be brought a piece of dung to throw away. She could then use whatever she wished of perfume or anything else”.’

وَحَدَّثَنَا يَحْيَى بْنُ يَحْيَى، قَالَ قَرَأْتُ عَلَى مَالِكٍ، عَنْ عَبْدِ اللهِ بْنِ أَبِي بَكْرٍ، عَنْ حُمَيْدِ بْنِ نَافِعٍ، عَنْ زَيْنَبَ بِنْتِ أَبِي سَلَمَةَ، أَنَّهَا أَخْبَرَتْهُ هَذِهِ الأَحَادِيثَ الثَّلاَثَةَ قَالَ: قَالَتْ زَيْنَبُ: دَخَلْتُ عَلَى أُمِّ حَبِيبَةَ، زَوْجِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، حِينَ تُوُفِّيَ أَبُوهَا أَبُو سُفْيَانَ. فَدَعَتْ أُمُّ حَبِيبَةَ بِطِيبٍ فِيهِ صُفْرَةٌ خَلُوقٌ، أَوْ غَيْرُهُ فَدَهَنَتْ مِنْهُ جَارِيَةً، ثُمَّ مَسَّتْ بِعَارِضَيْهَا، ثُمَّ قَالَتْ: وَاللهِ مَا لِي بِالطِّيبِ مِنْ حَاجَةٍ، غَيْرَ أَنِّي سَمِعْتُ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ يَقُولُ عَلَى الْمِنْبَرِ: «لا يَحِلُّ لِامْرَأَةٍ

تُؤْمِنُ بِاللهِ وَالْيَوْمِ الآخِرِ تُحِدُّ عَلَى مَيِّتٍ فَوْقَ ثَلاَثٍ، إِلاَّ عَلَى زَوْجٍ: أَرْبَعَةَ أَشْهُرٍ وَعَشْرًا»

قَالَتْ زَيْنَبُ: ثُمَّ دَخَلْتُ عَلَى زَيْنَبَ بِنْتِ جَحْشٍ حِينَ تُوُفِّيَ أَخُوهَا، فَدَعَتْ بِطِيبٍ، فَمَسَّتْ مِنْهُ ثُمَّ قَالَتْ: وَاللهِ مَا لِي بِالطِّيبِ مِنْ حَاجَةٍ، غَيْرَ أَنِّي سَمِعْتُ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ يَقُولُ عَلَى الْمِنْبَرِ: «لا يَحِلُّ لِامْرَأَةٍ تُؤْمِنُ بِاللهِ وَالْيَوْمِ الآخِرِ تُحِدُّ عَلَى مَيِّتٍ فَوْقَ ثَلاَثٍ، إِلاَّ عَلَى زَوْجٍ: أَرْبَعَةَ أَشْهُرٍ وَعَشْرًا».

قَالَتْ زَيْنَبُ: سَمِعْتُ أُمِّي، أُمَّ سَلَمَةَ، تَقُولُ: جَاءَتِ امْرَأَةٌ إِلَى رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَقَالَتْ: يَا رَسُولَ اللهِ إِنَّ ابْنَتِي تُوُفِّيَ عَنْهَا زَوْجُهَا، وَقَدِ اشْتَكَتْ عَيْنُهَا، أَفَنَكْحُلُهَا؟ فَقَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «لا». مَرَّتَيْنِ أَوْ ثَلاَثًا. كُلَّ ذَلِكَ يَقُولُ لا. ثُمَّ قَالَ: «إِنَّمَا هِيَ أَرْبَعَةُ أَشْهُرٍ وَعَشْرٌ. وَقَدْ كَانَتْ إِحْدَاكُنَّ فِي الْجَاهِلِيَّةِ تَرْمِي بِالْبَعَرَةِ عَلَى رَأْسِ الْحَوْلِ».

قَالَ حُمَيْدٌ: قُلْتُ لِزَيْنَبَ: وَمَا تَرْمِي بِالْبَعَرَةِ عَلَى رَأْسِ الْحَوْلِ؟ فَقَالَتْ زَيْنَبُ: كَانَتِ الْـمَرْأَةُ إِذَا تُوُفِّيَ عَنْهَا زَوْجُهَا دَخَلَتْ حِفْشًا، وَلَبِسَتْ شَرَّ ثِيَابِهَا، وَلَمْ تَمَسَّ طِيبًا وَلاَ شَيْئًا، حَتَّى تَمُرَّ بِهَا سَنَةٌ. ثُمَّ تُؤْتَى بِدَابَّةٍ: حِمَارٍ أَوْ شَاةٍ أَوْ طَيْرٍ، فَتَفْتَضُّ بِهِ. فَقَلَّمَا تَفْتَضُّ بِشَىْءٍ إِلاَّ مَاتَ، ثُمَّ تَخْرُجُ فَتُعْطَى بَعَرَةً، فَتَرْمِي بِهَا. ثُمَّ تُرَاجِعُ بَعْدُ مَا شَاءَتْ مِنْ طِيبٍ أَوْ غَيْرِهِ.

[3276–59]. (Dar al-Salam 3540) Muhammad ibn al-Muthannā narrated: Muhammad ibn Jaʿfar narrated; Shuʿbah narrated; from Ḥumayd ibn Nāfiʿ. He said: **‘I heard Zaynab bint Umm Salamah**

say: “A relative of Umm Ḥabībah died. She called for some yellow stuff, and she rubbed her arms with it. She then said: ‘I am only doing this because I heard God’s Messenger (peace be upon him) say: “It is unlawful for any woman who believes in God and the Last Day to be in mourning for more than three days, except for her husband: four months and ten days”.’”’

وَحَدَّثَنَا مُحَمَّدُ بْنُ الْـمُثَنَّى، حَدَّثَنَا مُحَمَّدُ بْنُ جَعْفَرٍ، حَدَّثَنَا شُعْبَةُ، عَنْ حُمَيْدِ بْنِ نَافِعٍ، قَالَ: سَمِعْتُ زَيْنَبَ بِنْتَ أُمِّ سَلَمَةَ قَالَتْ: تُوُفِّيَ حَمِيمٌ لأُمِّ حَبِيبَةَ، فَدَعَتْ بِصُفْرَةٍ فَمَسَحَتْهُ بِذِرَاعَيْهَا، وَقَالَتْ: إِنَّمَا أَصْنَعُ هَذَا لأَنِّي سَمِعْتُ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ يَقُولُ: «لا يَحِلُّ لِامْرَأَةٍ تُؤْمِنُ بِاللهِ وَالْيَوْمِ الآخِرِ أَنْ تُحِدَّ فَوْقَ ثَلاَثٍ، إِلاَّ عَلَى زَوْجٍ: أَرْبَعَةَ أَشْهُرٍ وَعَشْرًا».

Zaynab narrated this hadith from her mother, and from Zaynab, the Prophet’s wife, or a different wife of the Prophet (peace be upon him).

وَحَدَّثَتْهُ زَيْنَبُ، عَنْ أُمِّهَا، وَعَنْ زَيْنَبَ، زَوْجِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، أَوْ عَنِ امْرَأَةٍ مِنْ بَعْضِ أَزْوَاجِ النَّبِيِّ، صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ.

[3277–60]. (Dar al-Salam 3541) Muhammad ibn al-Muthannā narrated: Muhammad ibn Jaʿfar narrated; Shuʿbah narrated; from Ḥumayd ibn Nāfiʿ; he said: I heard Zaynab bint Umm Salamah narrating from her mother that **‘The husband of a certain woman died, and they [meaning her relatives] were worried about her eye. They came to the Prophet requesting permission to apply**

kohl to it. God’s Messenger said: “A woman used to be in the worst part of her home in her worst clothes (or in her worst clothes in the worst part of her home) for a full year. Then when a dog crossed, she threw a piece of dung and released herself. [Will she not endure] four months and ten days?”’

وَحَدَّثَنَا مُحَمَّدُ بْنُ الْـمُثَنَّى، حَدَّثَنَا مُحَمَّدُ بْنُ جَعْفَرٍ، حَدَّثَنَا شُعْبَةُ، عَنْ حُمَيْدِ بْنِ نَافِعٍ، قَالَ: سَمِعْتُ زَيْنَبَ بِنْتَ أُمِّ سَلَمَةَ، تُحَدِّثُ عَنْ أُمِّهَا، أَنَّ امْرَأَةً تُوُفِّيَ زَوْجُهَا، فَخَافُوا عَلَى عَيْنِهَا. فَأَتَوُا النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، فَاسْتَأْذَنُوهُ فِي الْكُحْلِ، فَقَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: قَدْ كَانَتْ إِحْدَاكُنَّ تَكُونُ فِي شَرِّ بَيْتِهَا فِي أَحْلاَسِهَا، أَوْ فِي شَرِّ أَحْلاَسِهَا فِي بَيْتِهَا، حَوْلاً. فَإِذَا مَرَّ كَلْبٌ، رَمَتْ بِبَعَرَةٍ فَخَرَجَتْ. أَفَلاَ أَرْبَعَةَ أَشْهُرٍ وَعَشْرًا؟

[3278–000]. (Dar al-Salam 3542) ʿUbaydullāh ibn Muʿādh narrated: my father narrated; Shuʿbah narrated; from Ḥumayd ibn Nāfiʿ; both hadiths: Umm Salamah’s hadith about kohl, and the hadith of Umm Salamah and another wife of the Prophet whom Zaynab did not name: **a similar text to Muhammad ibn Jaʿfar’s narration.**

وَحَدَّثَنَا عُبَيْدُ اللهِ بْنُ مُعَاذٍ، حَدَّثَنَا أَبِي، حَدَّثَنَا شُعْبَةُ، عَنْ حُمَيْدِ بْنِ نَافِعٍ، بِالْحَدِيثَيْنِ جَمِيعًا: حَدِيثِ أُمِّ سَلَمَةَ فِي الْكُحْلِ، وَحَدِيثِ أُمِّ سَلَمَةَ وَأُخْرَى مِنْ أَزْوَاجِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ. غَيْرَ أَنَّهُ لَمْ تُسَمِّهَا زَيْنَبُ، نَحْوَ حَدِيثِ مُحَمَّدِ بْنِ جَعْفَرٍ.

[3279–61]. (Dar al-Salam 3543) Abu Bakr ibn Abi Shaybah and ʿAmr al-Nāqid narrated: both said: Yazīd ibn Ḥārūn narrated; Yaḥyā ibn Saʿīd reported; from Ḥumayd ibn Nāfiʿ; that he heard Zaynab bint Abi Salamah narrating from Umm Salamah and Umm Ḥabībah: they mentioned that **‘A woman came to God’s Messenger (peace be upon him) and told him that her daughter’s husband had passed away and she now had a complaint in her eye. She wanted to apply kohl to her eye. God’s Messenger said to her: “A woman used to throw a piece of dung when a year had passed. Now it is only four months and ten days”.’**

وَحَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، وَعَمْرٌو النَّاقِدُ، قَالا: حَدَّثَنَا يَزِيدُ بْنُ هَارُونَ، أَخْبَرَنَا يَحْيَى بْنُ سَعِيدٍ، عَنْ حُمَيْدِ بْنِ نَافِعٍ، أَنَّهُ سَمِعَ زَيْنَبَ بِنْتَ أَبِي سَلَمَةَ، تُحَدِّثُ عَنْ أُمِّ سَلَمَةَ وَأُمِّ حَبِيبَةَ، تَذْكُرَانِ أَنَّ امْرَأَةً أَتَتْ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، فَذَكَرَتْ لَهُ أَنَّ بِنْتًا لَهَا تُوُفِّيَ عَنْهَا زَوْجُهَا، فَاشْتَكَتْ عَيْنُهَا. فَهْىَ تُرِيدُ أَنْ تَكْحُلَهَا، فَقَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «قَدْ كَانَتْ إِحْدَاكُنَّ تَرْمِي بِالْبَعَرَةِ عِنْدَ رَأْسِ الْحَوْلِ، وَإِنَّمَا هِيَ أَرْبَعَةُ أَشْهُرٍ وَعَشْرٌ».

[3280–62]. (Dar al-Salam 3544) ʿAmr al-Nāqid and Ibn Abi ʿUmar narrated (ʿAmr’s text): Sufyān ibn ʿUyaynah narrated; from Abyyūb ibn Mūsā; from Ḥumayd ibn Nāfiʿ; from Zaynab bint Abi Salamah. She said: **‘When Umm Ḥabībah received the news of Abu Sufyān’s [her father] death, she asked for some yellow stuff on the third day, and she rubbed with it her arms and the lower part of her cheeks. Then she said: “I have no need for**

this, but I heard the Prophet (peace be upon him) say: ‘It is unlawful for any woman who believes in God and the Last Day to be in mourning for more than three days, except for her husband: four months and ten days’.”’

وَحَدَّثَنَا عَمْرٌو النَّاقِدُ، وَابْنُ أَبِي عُمَرَ (وَاللَّفْظُ لِعَمْرٍو)، حَدَّثَنَا سُفْيَانُ بْنُ عُيَيْنَةَ، عَنْ أَيُّوبَ بْنِ مُوسَى، عَنْ حُمَيْدِ بْنِ نَافِعٍ، عَنْ زَيْنَبَ بِنْتِ أَبِي سَلَمَةَ، قَالَتْ: لَـمَّا أَتَى أُمَّ حَبِيبَةَ نَعِيُّ أَبِي سُفْيَانَ، دَعَتْ فِي الْيَوْمِ الثَّالِثِ بِصُفْرَةٍ، فَمَسَحَتْ بِهِ ذِرَاعَيْهَا وَعَارِضَيْهَا، وَقَالَتْ: كُنْتُ عَنْ هَذَا غَنِيَّةً. سَمِعْتُ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ يَقُولُ: «لا يَحِلُّ لِامْرَأَةٍ تُؤْمِنُ بِاللهِ وَالْيَوْمِ الآخِرِ أَنْ تُحِدَّ فَوْقَ ثَلاَثٍ، إِلاَّ عَلَى زَوْجٍ، فَإِنَّهَا تُحِدُّ عَلَيْهِ أَرْبَعَةَ أَشْهُرٍ وَعَشْرًا».

[3281–63]. (Dar al-Salam 3545-3546) Yaḥyā ibn Yaḥyā, Qutaybah and Ibn Rumḥ narrated:[ii] from al-Layth ibn Saʿd; from Nāfiʿ; that Ṣafiyyah bint Abu ʿUbayd narrated; from Ḥafṣah, or ʿĀ’ishah, or both; that **‘God’s Messenger (peace be upon him) said: “It is unlawful for any woman who believes in God and the Last Day (or believes in God and His Messenger) to mourn for a deceased person more than three days, except for her husband”.’**

وَحَدَّثَنَا يَحْيَى بْنُ يَحْيَى، وَقُتَيْبَةُ، وَابْنُ رُمْحٍ، عَنِ اللَّيْثِ بْنِ سَعْدٍ، عَنْ نَافِعٍ، أَنَّ صَفِيَّةَ بِنْتَ أَبِي عُبَيْدٍ، حَدَّثَتْهُ عَنْ حَفْصَةَ، أَوْ عَنْ عَائِشَةَ، أَوْ عَنْ كِلْتَيْهِمَا، أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: «لا يَحِلُّ لِامْرَأَةٍ

تُؤْمِنُ بِاللهِ وَالْيَوْمِ الآخِرِ - أَوْ تُؤْمِنُ بِاللهِ وَرَسُولِهِ - أَنْ تُحِدَّ عَلَى مَيِّتٍ فَوْقَ ثَلاَثَةِ أَيَّامٍ، إِلاَّ عَلَى زَوْجِهَا».

Shaybān ibn Farrūkh narrated: ʿAbd al-ʿAzīz (meaning Ibn Muslim) narrated; ʿAbdullāh ibn Dīnār narrated; from Nāfiʿ; with the same chain of transmission as in al-Layth's hadith: **the same text as his narration.**

وَحَدَّثَنَاهُ شَيْبَانُ بْنُ فَرُّوخَ، حَدَّثَنَا عَبْدُ الْعَزِيزِ، - يَعْنِي ابْنَ مُسْلِمٍ - حَدَّثَنَا عَبْدُ، اللهِ بْنُ دِينَارٍ عَنْ نَافِعٍ، بِإِسْنَادِ حَدِيثِ اللَّيْثِ. مِثْلَ رِوَايَتِهِ

[3282–64]. (Dar al-Salam 3547-3548) Abu Ghassān al-Mismaʿī and Muhammad ibn al-Muthannā narrated: both said: ʿAbd al-Wahhāb narrated; he said: I heard Yaḥyā ibn Saʿīd say: I heard Nāfiʿ narrating from Ṣafiyyah bint Abi ʿUbayd; that she heard Ḥafṣah bint ʿUmar, the Prophet's wife, narrating from the Prophet (peace be upon him): **the same as the hadith narrated by al-Layth and Ibn Dīnār. He added: 'She mourns for him [i.e., her husband] four months and ten days'.**

وَحَدَّثَنَاهُ أَبُو غَسَّانَ الْمِسْمَعِيُّ، وَمُحَمَّدُ بْنُ الْـمُثَنَّى، قَالا: حَدَّثَنَا عَبْدُ الْوَهَّابِ قَالَ: سَمِعْتُ يَحْيَى بْنَ سَعِيدٍ يَقُولُ: سَمِعْتُ نَافِعًا يُحَدِّثُ عَنْ صَفِيَّةَ بِنْتِ أَبِي عُبَيْدٍ، أَنَّهَا سَمِعَتْ حَفْصَةَ بِنْتَ عُمَرَ، زَوْجَ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، تُحَدِّثُ عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ بِمِثْلِ حَدِيثِ اللَّيْثِ وَابْنِ دِينَارٍ. وَزَادَ: «فَإِنَّهَا تُحِدُّ عَلَيْهِ أَرْبَعَةَ أَشْهُرٍ وَعَشْرًا».

Abu al-Rabīʿ narrated: Ḥammād narrated; from Ayyūb [H]. Also, Ibn Numayr narrated; my father narrated; from ʿUbaydullāh; all from Nāfiʿ; from Ṣafiyyah bint Abi ʿUbayd; from some of the Prophet's wives; from the Prophet (peace be upon him): **the same meaning.**

وَحَدَّثَنَا أَبُو الرَّبِيعِ، حَدَّثَنَا حَمَّادٌ، عَنْ أَيُّوبَ، ح. وَحَدَّثَنَا ابْنُ نُمَيْرٍ، حَدَّثَنَا أَبِي، حَدَّثَنَا عُبَيْدُ اللهِ، جَمِيعًا عَنْ نَافِعٍ، عَنْ صَفِيَّةَ بِنْتِ أَبِي عُبَيْدٍ، عَنْ بَعْضِ أَزْوَاجِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، بِمَعْنَى حَدِيثِهِمْ.

[3283–65]. (Dar al-Salam 3549) Yaḥyā ibn Yaḥyā, Abu Bakr ibn Abi Shaybah, ʿAmr al-Nāqid and Zuhayr ibn Ḥarb narrated (Yaḥyā's text):[iii] Sufyān ibn ʿUyaynah (Yaḥyā said: 'reported' and the others said: 'narrated'); from al-Zuhrī; from ʿUrwah; from ʿĀ'ishah; from the Prophet (peace be upon him). He said: **'It is unlawful for any woman who believes in God and the Last Day to mourn for a deceased person for more than three days, except for her husband'.**

وَحَدَّثَنَا يَحْيَى بْنُ يَحْيَى، وَأَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، وَعَمْرٌو النَّاقِدُ، وَزُهَيْرُ بْنُ حَرْبٍ (وَاللَّفْظُ لِيَحْيَى). (قَالَ يَحْيَى أَخْبَرَنَا وَقَالَ الآخَرُونَ حَدَّثَنَا) سُفْيَانُ بْنُ عُيَيْنَةَ، عَنِ الزُّهْرِيِّ، عَنْ عُرْوَةَ، عَنْ عَائِشَةَ، عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: «لا يَحِلُّ لِامْرَأَةٍ تُؤْمِنُ بِاللهِ وَالْيَوْمِ الآخِرِ أَنْ تُحِدَّ عَلَى مَيِّتٍ فَوْقَ ثَلاَثٍ، إِلاَّ عَلَى زَوْجِهَا».

[3284–66]. (Dar al-Salam 3550) Ḥasan ibn al-Rabīʿ narrated:[iv] Ibn Idrīs narrated; from Hishām; from Ḥafṣah; from Umm ʿAṭiyyah; that **‘God’s Messenger (peace be upon him) said: “No woman may be in mourning for a deceased person for more than three days, except for her husband: four months and ten days. She may not wear a coloured dress, except a yarn dress. She may not apply kohl or wear perfume, except that when she finishes her period, she may apply a little incense”.’**

وَحَدَّثَنَا حَسَنُ بْنُ الرَّبِيعِ، حَدَّثَنَا ابْنُ إِدْرِيسَ، عَنْ هِشَامٍ، عَنْ حَفْصَةَ، عَنْ أُمِّ عَطِيَّةَ، أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: لا تُحِدُّ امْرَأَةٌ عَلَى مَيِّتٍ فَوْقَ ثَلاَثٍ، إِلاَّ عَلَى زَوْجٍ: أَرْبَعَةَ أَشْهُرٍ وَعَشْرًا. وَلا تَلْبَسُ ثَوْبًا مَصْبُوغًا، إِلاَّ ثَوْبَ عَصْبٍ، وَلا تَكْتَحِلُ، وَلاَ تَمَسُّ طِيبًا إِلاَّ إِذَا طَهُرَتْ. نُبْذَةً مِنْ قُسْطٍ أَوْ أَظْفَارٍ.

[3285–000]. (Dar al-Salam 3551) Abu Bakr ibn Abi Shaybah narrated: ʿAbdullāh ibn Numayr [H]. Also, ʿAmr al-Nāqid narrated; Yazīd ibn Ḥārūn narrated; both from Hishām; with this chain of transmission: **the same text, but they said: ‘Except that at the beginning of her cleansing [from menstruation], she may apply a little incense’.**

وَحَدَّثَنَاهُ أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا عَبْدُ اللهِ بْنُ نُمَيْرٍ، ح. وَحَدَّثَنَا عَمْرٌو النَّاقِدُ، حَدَّثَنَا يَزِيدُ بْنُ هَارُونَ، كِلاَهُمَا عَنْ هِشَامٍ، بِهَذَا الإِسْنَادِ. وَقَالا: «عِنْدَ أَدْنَى طُهْرِهَا نُبْذَةً مِنْ قُسْطٍ وَأَظْفَارٍ».

[3286–67]. (Dar al-Salam 3552) Abu al-Rabīʿ al-Zahrānī narrated:[v] Ḥammād narrated; Ayyūb narrated; from Ḥafṣah; from Umm ʿAṭiyyah. She said: **‘We were ordered not to be in mourning for a deceased person more than three days, except for a husband: four months and ten days. We could not wear kohl or perfume or wear a coloured dress. However, a concession was given to a woman at the time when she takes a bath after her period of menstruation to use a little incense’.**

وَحَدَّثَنِي أَبُو الرَّبِيعِ الزَّهْرَانِيُّ، حَدَّثَنَا حَمَّادٌ، حَدَّثَنَا أَيُّوبُ، عَنْ حَفْصَةَ، عَنْ أُمِّ عَطِيَّةَ، قَالَتْ: كُنَّا نُنْهَى أَنْ نُحِدَّ عَلَى مَيِّتٍ فَوْقَ ثَلاَثٍ، إِلاَّ عَلَى زَوْجٍ: أَرْبَعَةَ أَشْهُرٍ وَعَشْرًا. وَلا نَكْتَحِلُ، وَلا نَتَطَيَّبُ، وَلا نَلْبَسُ ثَوْبًا مَصْبُوغًا. وَقَدْ رُخِّصَ لِلْـمَرْأَةِ فِي طُهْرِهَا، إِذَا اغْتَسَلَتْ إِحْدَانَا مِنْ مَحِيضِهَا، فِي نُبْذَةٍ مِنْ قُسْطٍ وَأَظْفَارٍ.

Text Explanation

In hadith No. 3275 and other hadiths in this chapter, the Prophet says: ‘It is unlawful for any woman who believes in God and the Last Day to mourn for a deceased person more than three days, except for her husband: four months and ten days’. This is clear evidence that a woman who is observing a waiting period as a result of her husband’s death must be in mourning. This is unanimously agreed upon in general, with differences in details. Mourning, according to the legal Islamic definition, means refraining from putting on any adornment or wearing perfume [and we may add in our time abandoning all makeup]. There are well-known details of this in books of Fiqh.

Therefore, mourning is a duty of a woman in a waiting period due to death. This applies, whether the marriage has been consummated or not, to all wives: young or old, virgin or not, free or slave, Muslim or non-Muslim. This is the view of al-Shāfiʿī and the majority of scholars. However, Abu Ḥanīfah and other Kufi scholars, Abu Thawr and some Mālikī scholars said that it does not apply to a non-Muslim wife. It is especially applicable to Muslims because the Prophet said: ‘It is unlawful for any woman who believes in God and the Last Day…’. The majority view is that only a believer heeds, benefits by and implements the Legislator’s address. Hence, the address is to believers. Abu Ḥanīfah also said that no mourning is required if the wife is young or a slave. Scholars are also unanimous that mourning does not apply to a mother-of-child or a slave when their master dies, nor to a divorced wife observing a waiting period if her divorce is revocable. Scholars differ concerning a thrice-divorced wife in her waiting period. ʿAṭā’, Rabīʿah, Mālik, al-Layth, al-Shāfiʿī and Ibn al-Mundhir said that no mourning is required from her. Al-Ḥakam, Abu Ḥanīfah, Kufi scholars, Abu Thawr and Abu ʿUbayd said that the duty of mourning applies to her. This is also a weak report from al-Shāfiʿī. *Qadi* ʿIyāḍ reports

a statement attributed to al-Ḥasan al-Baṣrī that no mourning is required from a divorcee or a widow. This is an odd and strange view.

Scholars who said that no mourning is to be observed by a thrice-divorced woman rely for evidence on the Prophet's words which mean 'except for a deceased person'. Thus, he makes it clear that mourning does not apply to any situation other than death, and he makes it clear that it is forbidden in other situations.

Qadi ʿIyāḍ said: 'That mourning becomes a duty when a woman is widowed is based on the fact that scholars agree on this understanding of the hadith, even though its wording does not imply obligation. Yet they are agreed that there is an obligation here, relating it to the other hadith narrated by Umm Salamah and Umm ʿAṭiyyah which forbids widows the use of kohl, perfume and colourful clothing during their waiting period. Yet, God knows best.'

The Prophet said: 'four months and ten days'. This means ten days and nights. This is the view of our school and all scholars, except what is mentioned that Yaḥyā ibn Abi Kathīr and al-Awzāʿī say that it is four months and ten nights, which means that the waiting period is over at the start of the tenth day.[vi] According to our school and the majority of scholars, the woman ends her waiting period at the start of the night of the eleventh day. Moreover, the specification, 'four months and ten days', is stated because it applies to most widows. A widow who is pregnant observes a waiting period that ends only when she delivers her baby, and she observes mourning throughout her waiting period, whether long or short, until she gives birth. Once she has delivered, no mourning is required of her. Some scholars, however, say that she need not observe mourning after four months and ten days, if she has not delivered, but God knows best.

Scholars said that the purpose of mourning in the waiting period after the husband's death, but not after divorce, is that adornment and perfume encourage marriage and may lead to it. Therefore, women are ordered not to

use these so as to prevent their marriage. When a husband has died, he no longer has any influence on what his widow may do with regard to a new marriage. The man who wants to marry her may be totally oblivious of what is due to the deceased husband. In contrast, the mere presence of a divorcing husband provides a check on a new marriage of his divorced wife. It is for this reason that a waiting period applies to every married woman whose husband dies, even though the marriage might not have been consummated. Therefore, the deceased is considered, and the waiting period of a widow is made four months and ten days because the spirit is breathed into the embryo four months after conception. The ten days are added as a precaution. After this period, the embryo moves and the mark of pregnancy is apparent. This has not been entrusted to women's honesty so as to define the waiting period by menstruation and cleanliness. All these measures are taken as a precaution to ensure the rights of the deceased. Since wives who are very young are rare, they are joined to other wives with regard to the requirements of the waiting period and mourning, but God knows best.

Hadith No. 3275 mentions that Umm Ḥabībah, the Prophet's wife, requested some sort of perfume, with a yellow colour and which she rubbed into the lower part of her cheeks. The 'lower part' means the side of one's face, from the point above the chin to just under one's ear. Umm Ḥabībah did this to remove any suggestion of mourning. What she and Zaynab did, together with the hadith, show that it is permissible to mourn for a deceased person, other than one's husband, for three days or less.

In the same hadith, the Prophet is asked whether kohl may be used by a woman in her mourning, if she has a complaint in her eyes. He said: 'No'. This hadith and the one narrated by Umm ʿAtiyyah, No. 3286, which says: 'She may not apply kohl', make it clear that kohl is forbidden to a woman in mourning, whether she needs it or not. In a different hadith narrated by Umm Salamah and related in *al-Muwaṭṭa'* and other anthologies, the Prophet says to a woman: 'apply it at night and rub it off during the day'.

These hadiths may be reconciled on the basis that for a woman who is in no need of it, kohl is forbidden. If she is in need of it, it is permissible during the night, but not during the day, yet it is preferable not to use it. If she uses it at night, she should rub it off in the day. The hadith permitting it explains that it may be used during the night when needed, and the hadith forbidding it is understood that it should not be used when there is no need for it. The hadith concerning the one with an eye complaint implies discouragement, rather than strict prohibition. Alternatively, some scholars suggest that there was no real fear for her eye. Scholars had different views on the use of kohl by a woman in mourning. Sālim ibn ʿAbdullāh, Sulaymān ibn Yasār and Mālik in one report said that it is permissible for her to use unperfumed kohl, if she fears for her eye. Some scholars say it is permissible when there is need for it, even if it is perfumed. Our school expresses the view that it is permissible if needed, provided it is unperfumed.

The Prophet says in the same hadith, No. 3275, ‘It is only four months and ten [days]. In the days of ignorance, a woman used to throw a piece of dung at the end of a full year’. This means that you should not think the waiting period, in which you cannot use kohl, is too long. It is indeed not long, having been reduced from one year to four months and ten days. This is clear that a one-year waiting period, as mentioned in the other verse in Surah 2 The Cow, was abrogated.[vii] The reference to throwing a piece of dung at the end of one year has been explained in the hadith. Some scholars said that it means that she has thrown the waiting period away in the same way as she threw the dung away from her. Others said that it indicated that what she had done, waiting for a year during which she stayed in a small place and wearing her worst clothes are too small compared with what is rightfully due to a husband. It is no more than throwing away such dung.

The hadith then mentions further practices of pre-Islamic days, concerning a widow’s waiting period. ‘Then she would be brought an animal: a donkey or a sheep or a bird to rub herself with’. Ibn Qutaybah

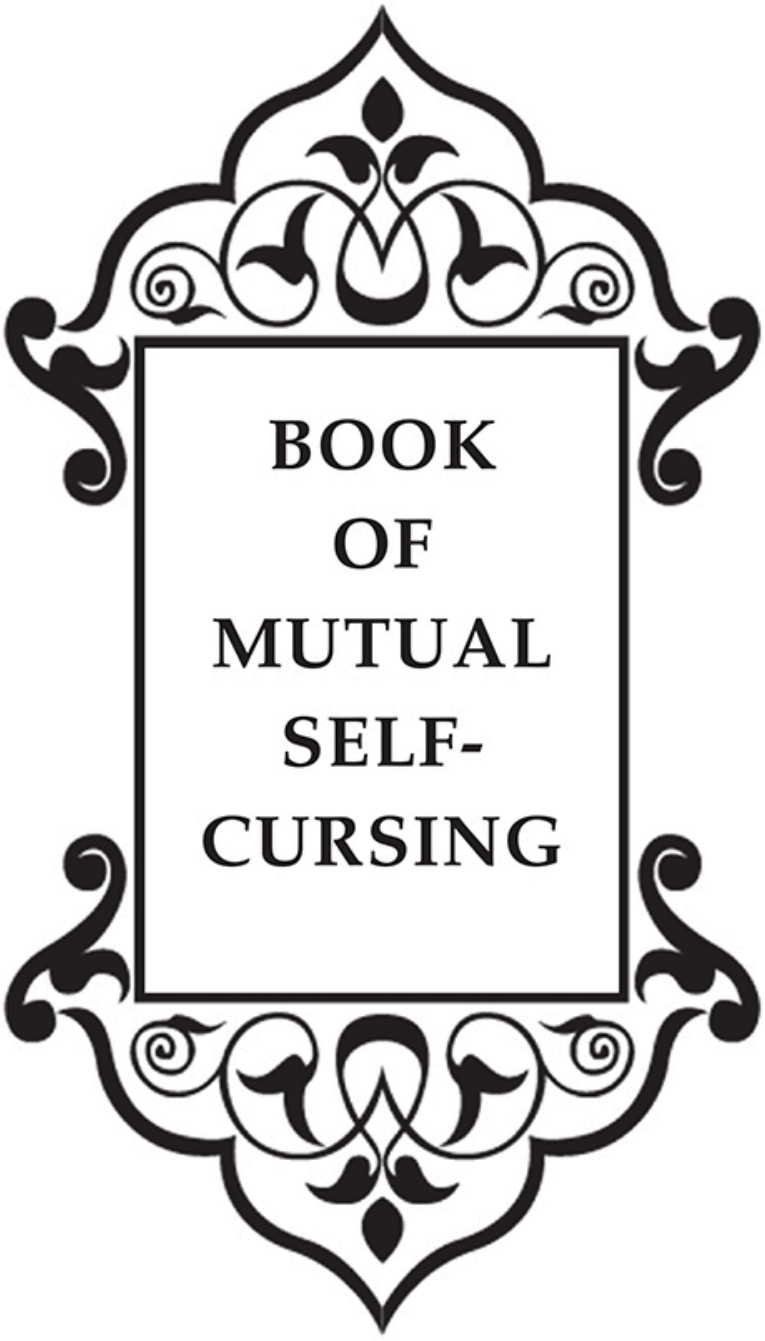
said that he asked the people of Hijaz about the meaning of this action. They said that when a widow observed her waiting period, they did not take a bath or touch water or clip a nail. When a year was over, she ended her waiting period, and was given a bird with which to rub her vagina and throw away. Whatever she rubbed herself with hardly survived after that. Mālik said that it means she rubbed her skin with it. Ibn Wahb said that it means she rubbed it, or rubbed its back, with her hand. It is further said that she rubbed herself with it and then took a bath. The Arabic term used here *taftaḍḍ* means washing with fresh water to remove all dirt. She washed herself so that she became white clean like silver. Al-Akhfash said that it meant that she cleaned herself of all that is dirty. She could then be compared to silver in her cleanliness and whiteness.

In hadith No. 3284, the Prophet says that when a widow is in mourning, ‘she may not wear a coloured dress, except a yarn dress’. This means a prohibition of all types of dyed or colourful clothing which are worn as adornment. She may instead wear only yarn clothes. Ibn al-Mundhir said that all scholars agree that a woman in mourning may not wear clothes dyed with saffron or different colours, except what is dyed black. Scholars who permit clothes dyed black include ʿUrwah ibn al-Zubayr, Mālik and al-Shāfiʿī, while al-Zuhrī discourages it. ʿUrwah discourages yarn clothes, while al-Zuhrī approves of it and Mālik approves what is thick of it. Our scholars tend to make it totally forbidden, but this hadith provides an argument in support of permitting it. Ibn al-Mundhir said that all scholars permit white clothes, but later Mālikī scholars disapprove of fine white clothes which are worn for adornment. The same applies to fine black clothes. Our scholars said that whatever is dyed without being intended as adornment is permissible. The more correct view is that a woman in mourning may wear silk. On the other hand, gold, silver and pearl jewellery is forbidden, except for one view that says pearl is permitted.

In the same hadith, the Prophet says that during mourning, a woman ‘may not wear perfume, except that when she finishes her period, she may

apply a little incense’. Two specific types of incense are mentioned because they do not impart a perfumery scent. Incense is allowed for a woman when she takes a bath after her menstruation period, and she uses it to remove any traces of blood. It is not used as a perfume, but God knows best.

i. Related by al-Bukhari, 1280, 1281, 1282, 5334, 5335, 5336, 5338, 5345 and 5706; Abu Dāwūd, 2299; al-Tirmidhī, 1195, 1196 and 1197; al-Nasā’ī, 3500, 3501, 3502, 3527, 3533, 3534, 3535, 3540, 3541, 3542 and 3543; Ibn Mājah, 2084.
ii. Related by al-Nasā’ī, 3503; Ibn Mājah, 2086.
iii. Related by Ibn Mājah, 2085.
iv. Related by al-Bukhari, 313 and 5342; Abu Dāwūd, 2302 and 2303; al-Nasā’ī, 3536; Ibn Mājah, 2087.
v. Related by al-Bukhari, 313 and 5341.
vi. The difference here is due to the fact that according to Islam, a day begins at sunset. This means that the night preceding the day is part of it. Hence, as the Prophet says, ‘four months and ten’, limiting the ten to ‘nights’ means the waiting period ends after the night preceding the tenth day.
vii. The verse to which Imam al-Nawawī refers here is 2: 240, but there is no clear reference in this verse to a waiting period. It speaks of other provisions.


BOOK
OF
MUTUAL
SELF-
CURSING

CHAPTER 1

MUTUAL SELF-CURSING[i]

[3287–1]. (Dar al-Salam 3553) Yaḥyā ibn Yaḥyā narrated:[ii] he said: I read out to Mālik; from Ibn Shihāb; that Sahl ibn Saʿd al-Sāʿidī reported to him that **ʿUwaymir al-ʿAjlānī went to ʿĀṣim ibn ʿAdiy al-Anṣārī and said to him: "ʿĀṣim, suppose that a man finds a man with his wife and he kills him, will you kill him [i.e., kill the husband in retaliation]? Or what should he do? ʿĀṣim, ask God's Messenger (peace be upon him) about this for me". ʿĀṣim asked God's Messenger but God's Messenger disliked the question and reproached him for it. ʿĀṣim felt upset at what he heard God's Messenger say. When ʿĀṣim went back home, ʿUwaymir came to him and said: "ʿĀṣim, what did God's Messenger (peace be upon him) say to you?" ʿĀṣim said to ʿUwaymir: "You did not bring me any good. God's Messenger (peace be upon him) disliked the question I asked him". ʿUwaymir said: "By God, I shall not stop until I have asked him about it".**

ʿUwaymir went over to God's Messenger as people were around him. He said: "Messenger of God, suppose that a man finds his wife with a man: should he kill him and then you kill him [in return]? Or what shall he do?" God's Messenger (peace be upon him) said: "Revelation has been given concerning you and your wife. Go and bring her".

Sahl said: “They exchanged curses. I was with the people attending God’s Messenger (peace be upon him). When they had done so, ʿUwaymir said: ‘Messenger of God, if I retain her as my wife, I would have told a lie against her’. He divorced her three times before God’s Messenger (peace be upon him) ordered him”.’

Ibn Shihāb said: ‘Such was the case of the couple exchanging curses’.

وَحَدَّثَنَا يَحْيَى بْنُ يَحْيَى، قَالَ قَرَأْتُ عَلَى مَالِكٍ، عَنِ ابْنِ شِهَابٍ، أَنَّ سَهْلَ بْنَ سَعْدٍ السَّاعِدِيَّ أَخْبَرَهُ، أَنَّ عُوَيْمِرًا الْعَجْلاَنِيَّ جَاءَ إِلَى عَاصِمِ بْنِ عَدِيٍّ الأَنْصَارِيِّ فَقَالَ لَهُ: أَرَأَيْتَ يَا عَاصِمُ، لَوْ أَنَّ رَجُلاً وَجَدَ مَعَ امْرَأَتِهِ رَجُلاً، أَيَقْتُلُهُ فَتَقْتُلُونَهُ؟ أَمْ كَيْفَ يَفْعَلُ؟ فَسَلْ لِي عَنْ ذَلِكَ يَا عَاصِمُ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ. فَسَأَلَ عَاصِمٌ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، فَكَرِهَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ الْـمَسَائِلَ وَعَابَهَا، حَتَّى كَبُرَ عَلَى عَاصِمٍ مَا سَمِعَ مِنْ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ. فَلَـمَّا رَجَعَ عَاصِمٌ إِلَى أَهْلِهِ جَاءَهُ عُوَيْمِرٌ فَقَالَ: يَا عَاصِمُ، مَاذَا قَالَ لَكَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ؟ قَالَ عَاصِمٌ لِعُوَيْمِرٍ: لَمْ تَأْتِنِي بِخَيْرٍ. قَدْ كَرِهَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ الْـمَسْأَلَةَ الَّتِي سَأَلْتُهُ عَنْهَا . قَالَ عُوَيْمِرٌ وَاللهِ لاَ أَنْتَهِي حَتَّى أَسْأَلَهُ عَنْهَا .

فَأَقْبَلَ عُوَيْمِرٌ حَتَّى أَتَى رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ وَسَطَ النَّاسِ فَقَالَ: يَا رَسُولَ اللهِ، أَرَأَيْتَ رَجُلاً وَجَدَ مَعَ امْرَأَتِهِ رَجُلاً أَيَقْتُلُهُ فَتَقْتُلُونَهُ

أَمْ كَيْفَ يَفْعَلُ؟ فَقَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «قَدْ نَزَلَ فِيكَ وَفِي صَاحِبَتِكَ، فَاذْهَبْ فَأْتِ بِهَا» .

قَالَ سَهْلٌ: فَتَلاَعَنَا، وَأَنَا مَعَ النَّاسِ عِنْدَ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ. فَلَـمَّا فَرَغَا قَالَ عُوَيْمِرٌ: كَذَبْتُ عَلَيْهَا يَا رَسُولَ اللهِ إِنْ أَمْسَكْتُهَا . فَطَلَّقَهَا ثَلاَثًا قَبْلَ أَنْ يَأْمُرَهُ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ. قَالَ ابْنُ شِهَابٍ فَكَانَتْ سُنَّةَ الْـمُتَلاَعِنَيْنِ.

[3288–2]. (Dar al-Salam 3554) Ḥarmalah ibn Yaḥyā narrated to me: Ibn Wahb reported; Yūnus reported to me; from Ibn Shihāb; Sahl ibn Saʿd al-Anṣārī reported to me that **‘ʿUwaymir al-Anṣārī of the al-ʿAjlān clan went to ʿĀṣim ibn ʿAdiy…’ he narrated the hadith in the same terms as Mālik’s narration. He interpolated in the hadith: ‘The way he parted with her was subsequently the case of the couple exchanging curses’. He further added: ‘Sahl said: “She was pregnant. Her son was affiliated to her. Then the sunnah was such that he could inherit from her, and she inherits from him whatever God determined as her share’.**

وَحَدَّثَنِي حَرْمَلَةُ بْنُ يَحْيَى، أَخْبَرَنَا ابْنُ وَهْبٍ، أَخْبَرَنِي يُونُسُ، عَنِ ابْنِ شِهَابٍ، أَخْبَرَنِي سَهْلُ بْنُ سَعْدٍ الأَنْصَارِيُّ، أَنَّ عُوَيْمِرًا الأَنْصَارِيَّ، مِنْ بَنِي الْعَجْلاَنِ، أَتَى عَاصِمَ بْنَ عَدِيٍّ . وَسَاقَ الْحَدِيثَ بِمِثْلِ حَدِيثِ مَالِكٍ، وَأَدْرَجَ فِي الْحَدِيثِ قَوْلَهُ وَكَانَ فِرَاقُهُ إِيَّاهَا بَعْدُ سُنَّةً فِي الْـمُتَلاَعِنَيْنِ. وَزَادَ فِيهِ: قَالَ سَهْلٌ: فَكَانَتْ حَامِلاً فَكَانَ ابْنُهَا يُدْعَى إِلَى أُمِّهِ. ثُمَّ جَرَتِ السُّنَّةُ أَنَّهُ يَرِثُهَا وَتَرِثُ مِنْهُ مَا فَرَضَ اللهُ لَهَا.

[3289–3]. (Dar al-Salam 3555) Muhammad ibn Rāfiʿ narrated: ʿAbd al-Razzāq narrated; Ibn Jurayj reported; Ibn Shihāb reported to me about the couple who exchanged curses and the practice concerning them the hadith narrated by Sahl ibn Saʿd, who belonged to the Sāʿidah clan, that **‘A man from the Anṣār came to the Prophet and said: Messenger of God, suppose that a man found his wife with a man…’. He mentioned the same hadith and added: ‘They exchanged curses at the mosque and I witnessed that’. He also said: ‘He divorced her three times before being commanded by God’s Messenger (peace be upon him). He parted with her at the Prophet’s and the Prophet said: “Such is the separation between every couple who exchange such curses”.’**

وَحَدَّثَنَا مُحَمَّدُ بْنُ رَافِعٍ، حَدَّثَنَا عَبْدُ الرَّزَّاقِ، أَخْبَرَنَا ابْنُ جُرَيْجٍ، أَخْبَرَنِي ابْنُ شِهَابٍ، عَنِ الْـمُتَلاَعِنَيْنِ، وَعَنِ السُّنَّةِ فِيهِمَا، عَنْ حَدِيثِ سَهْلِ بْنِ سَعْدٍ، أَخِي بَنِي سَاعِدَةَ. أَنَّ رَجُلاً مِنَ الأَنْصَارِ جَاءَ إِلَى النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَقَالَ: يَا رَسُولَ اللهِ أَرَأَيْتَ رَجُلاً وَجَدَ مَعَ امْرَأَتِهِ رَجُلاً، وَذَكَرَ الْحَدِيثَ بِقِصَّتِهِ. وَزَادَ فِيهِ: فَتَلاَعَنَا فِي الْـمَسْجِدِ وَأَنَا شَاهِدٌ. وَقَالَ فِي الْحَدِيثِ فَطَلَّقَهَا ثَلاَثًا قَبْلَ أَنْ يَأْمُرَهُ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ. فَفَارَقَهَا عِنْدَ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، فَقَالَ النَّبِيُّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «ذَاكُمُ التَّفْرِيقُ بَيْنَ كُلِّ مُتَلاَعِنَيْنِ».

Text Explanation

‘Mutual self-cursing’ refers to the exchange of self-cursing between man and wife when there is an accusation of adultery but no witnesses. The ruling in such a case is provided in the Qur’an as God says: ‘And as for those who accuse their own wives [of adultery], but have no witnesses except themselves, let each of them call God four times to witness that he is indeed telling the truth; and the fifth time, that God’s curse be upon him if he is telling a lie. However, punishment is averted from her if she calls God four times to witness that he is indeed telling a lie; and the fifth time, that God’s wrath be upon her if he is telling the truth. Were it not for God’s favour upon you and His grace, and that God is the One who accepts repentance, the Wise…!’ (24: 6-10)

This process is called ‘mutual self-cursing’ because the accusing husband says: ‘May God’s curse be upon me if I am telling a lie’. Scholars said that the word ‘curse’ is chosen rather than the word ‘wrath’ although the verses mention both, and both are included in the process, because the word ‘curse’ is mentioned first. Moreover, the man’s side is stronger as he is the one who starts the process, and because his cursing may be separated from hers, but the reverse is not possible. It is also said that it is called self-cursing because, linguistically speaking, curse in Arabic means expulsion and sending away. The process sets the couple far apart. Unlike the case of divorce, their remarriage is not permissible for life.

According to the majority of scholars of our Shāfiʿī School, the process of ‘self-cursing’ is treated as an oath, but some say that it is a testimony. Others say that it is an oath that includes a testimony, while some say the opposite, i.e., a testimony including an oath. Scholars say that the only cases that include multiple oaths are this one of self-cursing and the *qassāmah*, which is group swearing. Moreover, these two are the only cases that require the one making the accusation to swear an oath, but God knows best. Scholars also say that the process of mutual self-cursing is permitted

in order to ensure correct child parentage and to remove shame from couples. It is the unanimous view of scholars that the process is valid.

Scholars express two views regarding the scenario that led to the revelation of the above-quoted Qur'anic verses outlining the process: was it the case of ʿUwaymir al-ʿAjlānī or that of Hilāl ibn Umayyah? Some scholars say that it concerns ʿUwaymir al-ʿAjlānī, citing in support the first hadith in this book, No. 3287, in which the Prophet said to him: 'Revelation has been given concerning you and your wife'. The majority of scholars say that these verses were revealed in connection with the case of Hilāl ibn Umayyah, citing hadith No. 3299, related by Muslim, which says that Hilāl 'was the first man to resort to mutual self-cursing in Islam'. Al-Māwardī, a Shāfiʿī scholar, says in his book *al- Ḥāwī*, that the majority of scholars say that the case of Hilāl ibn Umayyah was earlier than that of ʿUwaymir al-ʿAjlānī, but the reporting of these cases share points of similarity whilst also points of difference. In his book *al-Shāmil*, another Shāfiʿī scholar, Ibn al-Ṣabbāgh, says that Hilāl's case indicates that the verses were first revealed concerning him. That the Prophet said to ʿUwaymir, 'Revelation has been given concerning you and your wife,' refers to what was revealed concerning Hilāl because the revelation gives a general ruling applicable to all such cases. My own view is that it is possible that the verses might have been revealed concerning both cases, as they might have happened within a short interval, but Hilāl was the first to follow the process, but God knows best. Scholars further say that this case of mutual self-cursing took place in the month of Shaʿbān of Year 9 AH, i.e., a few months before the Prophet passed away. This is mentioned by *Qadi* ʿIyāḍ quoting Ibn Jarīr al-Ṭabarī.

Hadith No. 3287 mentions that when ʿĀṣim put ʿUwaymir's question to the Prophet, the Prophet 'disliked the question and reproached him for it'. What is meant here is that the Prophet disliked unnecessary questions, particularly those that involved exposing another Muslim's secret, or suggesting that a Muslim did some serious wrong, or a question that tended towards toleration of some gross indecency. Scholars say that if the

question relates to some necessary matter of religion, or an event that has taken place, there is no harm in asking about it. The hadith does not refer to anything of this type. Muslims used to ask God's Messenger about rulings for actual events and he would reply, showing no dislike. In this particular case, ʿĀṣim's question related to an event that had not yet happened. It reflected ill on Muslim men and women and would encourage the Jews and the hypocrites to speak ill of Muslims and their families, and indeed to speak ill of Islam itself. Moreover, some questions tend, when answered, to make things even more restricted. A hadith quotes the Prophet: 'The one worst at war is the person who asks about something that has not been forbidden, and a verdict of prohibition is issued as a result of his question'.

The same hadith mentions that ''ʿUwaymir said: "Messenger of God, suppose that a man finds his wife with a man: should he kill him and then you will kill him [in return]? Or what shall he do? God's Messenger (peace be upon him) said: "Revelation has been given concerning you and your wife. Go and bring her". Sahl said: "They exchanged curses".' The way the hadith is narrated leaves out the sequence of what actually happened. It means that ʿUwaymir put his question to the Prophet and accused his wife. She denied that she committed adultery and each of them stood firm by what they said. They then swore their oaths invoking curses upon themselves.

ʿUwaymir suggested in his question that if the husband killed the man he found in an adulterous position with his own wife, would he be killed for having killed the adulterer? If he did nothing and remained patient, he would be tolerating something very serious. What way was open to him? Scholars hold different views about a man who kills another, then claims that he found him committing adultery with his own wife. The majority say that his claim is not accepted, and a retaliation punishment is incurred by such a person, unless there is some clear evidence that his claim is true, or that the heirs of the killed person acknowledge the accusation. The clear evidence required is four male witnesses testifying the same case of

adultery, and that the killed person was married. As for the killer and his standing in God's sight, he is considered not to have committed any offence if he has told the truth. Some of our scholars are of the opinion that a retaliatory punishment is incurred by anyone who kills a married adulterer, unless the ruler has ordered his killing. The first view is the correct one. Some early scholars said that the person claiming he killed him because he found him committing adultery with his wife, should be believed.

In the hadith, the narrator, Sahl, said: 'They exchanged curses. I was with the people attending God's Messenger (peace be upon him)'. This makes it clear that the mutual self-cursing process is conducted in the presence of the ruler or a judge and witnessed by a number of people. This is one way of solemnizing the process: it is made more solemn in time, place and witness - the time is after the ʿAṣr Prayer, and the place is the most honourable place in the town, and the number of people is four as a minimum. Yet are these requirements obligatory or recommended? Our scholars express two views, but the more correct view is that they are recommended.

The hadith adds: 'When they had done so, ʿUwaymir said: "Messenger of God, if I retain her as my wife, I would have told a lie against her". He divorced her three times before God's Messenger (peace be upon him) ordered him. Ibn Shihāb said: "Such was the case of the couple exchanging curses".' In hadith No. 3289: 'He divorced her three times before being commanded by God's Messenger (peace be upon him). He parted with her at the Prophet's place. The Prophet said: "Such is the separation between every couple who exchange such curses".' And in another hadith: 'He invoked the curse upon himself, then she invoked it upon herself. He then parted them'. In the hadith No. 3292 the Prophet tells the man that he has no access to her.

[3290–4]. (Dar al-Salam 3556) Muhammad ibn ʿAbdullāh ibn Numayr narrated:[iii] my father narrated [H]. Also, Abu Bakr ibn Abi

Shaybah narrated (his text); ʿAbdullāh ibn Numayr narrated; ʿAbd al-Malik ibn Abi Sulaymān narrated; from Saʿīd ibn Jubay: He said: **‘I was asked about a couple who go through mutual self-cursing: is their marriage terminated? I did not know what to say. I went to Ibn ʿUmar’s home in Makkah and said to his servant: “Request admittance for me”. He said that he was having his nap. He heard my voice and said: “[Is that you] Ibn Jubayr?” I said: “Yes”. He said: “Come in. By God, it must be something serious that brought you at this time of day”. I entered. I found him lying on a saddle cloth, using a pillow stuffed with fibre. I said: “Abu ʿAbd al-Raḥmān, are the couple who go through mutual self-cursing separated?” He said: “Limitless is God in His glory! Yes. The first to ask about this was so-and-so, son of such-and-such. He said: ‘Messenger of God, if any of us finds his wife committing adultery, what should he do? If he speaks out, he says something very serious, and if he keeps silent, it is similarly serious’. The Prophet (peace be upon him) remained silent and did not answer him. Sometime later, the man came back and said: “I have suffered what I asked you about”. God then revealed those verses in the Surah Light [starting with]: “As for those who accuse their own wives…” (24: 6-9). The Prophet recited these verses to him, admonished and reminded him, telling him that punishment in this life is much lighter than punishment in the life to come. The man said: “No. By Him who sent you with the message of the truth, I have not told a lie against her”. The Prophet then called her. He admonished and reminded her, telling her that punishment in this life is much lighter than punishment in the**

life to come. She said: ‘No. By Him who sent you with the message of the truth, he is certainly lying’. The Prophet started with the man who called God four times to witness that he was indeed telling the truth and added a fifth invoking God’s curse upon himself if he was telling a lie. The Prophet then asked the woman and she called God four times to witness that her husband was telling a lie and added a fifth invoking God’s wrath upon herself if he was telling the truth. He then separated them”.’

حَدَّثَنَا مُحَمَّدُ بْنُ عَبْدِ اللهِ بْنِ نُمَيْرٍ، حَدَّثَنَا أَبِي ح. وَحَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ (وَاللَّفْظُ لَهُ)، حَدَّثَنَا عَبْدُ اللهِ بْنُ نُمَيْرٍ، حَدَّثَنَا عَبْدُ الْـمَلِكِ بْنُ أَبِي سُلَيْمَانَ، عَنْ سَعِيدِ بْنِ جُبَيْرٍ قَالَ: سُئِلْتُ عَنِ الْـمُتَلاَعِنَيْنِ، فِي إِمْرَةِ مُصْعَبٍ: أَيُفَرَّقُ بَيْنَهُمَا؟ قَالَ: فَمَا دَرَيْتُ مَا أَقُولُ. فَمَضَيْتُ إِلَى مَنْزِلِ ابْنِ عُمَرَ بِمَكَّةَ، فَقُلْتُ لِلْغُلاَمِ اسْتَأْذِنْ لِي . قَالَ: إِنَّهُ قَائِلٌ، فَسَمِعَ صَوْتِي . قَالَ: ابْنُ جُبَيْرٍ؟ قُلْتُ نَعَمْ. قَالَ: ادْخُلْ، فَوَاللهِ مَا جَاءَ بِكَ هَذِهِ السَّاعَةَ إِلاَّ حَاجَةٌ. فَدَخَلْتُ، فَإِذَا هُوَ مُفْتَرِشٌ بَرْذَعَةً، مُتَوَسِّدٌ وِسَادَةً حَشْوُهَا لِيفٌ. قُلْتُ: أَبَا عَبْدِ الرَّحْمَنِ، الْـمُتَلاَعِنَانِ أَيُفَرَّقُ بَيْنَهُمَا؟ قَالَ: سُبْحَانَ اللهِ، نَعَمْ. إِنَّ أَوَّلَ مَنْ سَأَلَ عَنْ ذَلِكَ فُلاَنُ بْنُ فُلاَنٍ قَالَ: يَا رَسُولَ اللهِ، أَرَأَيْتَ أَنْ لَوْ وَجَدَ أَحَدُنَا امْرَأَتَهُ عَلَى فَاحِشَةٍ، كَيْفَ يَصْنَعُ؟ إِنْ تَكَلَّمَ تَكَلَّمَ بِأَمْرٍ عَظِيمٍ، وَإِنْ سَكَتَ سَكَتَ عَلَى مِثْلِ ذَلِكَ. قَالَ: فَسَكَتَ النَّبِيُّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَلَمْ يُجِبْهُ. فَلَـمَّا كَانَ بَعْدَ ذَلِكَ أَتَاهُ فَقَالَ: إِنَّ الَّذِي سَأَلْتُكَ عَنْهُ قَدِ ابْتُلِيتُ بِهِ. فَأَنْزَلَ اللهُ عَزَّ وَجَلَّ هَؤُلاَءِ الآيَاتِ فِي سُورَةِ النُّورِ: «وَالَّذِينَ يَرْمُونَ أَزْوَاجَهُمْ»، فَتَلاَهُنَّ عَلَيْهِ،

وَوَعَظَهُ وَذَكَّرَهُ. وَأَخْبَرَهُ أَنَّ عَذَابَ الدُّنْيَا أَهْوَنُ مِنْ عَذَابِ الآخِرَةِ. قَالَ: لا وَالَّذِي بَعَثَكَ بِالْحَقِّ، مَا كَذَبْتُ عَلَيْهَا. ثُمَّ دَعَاهَا، فَوَعَظَهَا وَذَكَّرَهَا، وَأَخْبَرَهَا أَنَّ عَذَابَ الدُّنْيَا أَهْوَنُ مِنْ عَذَابِ الآخِرَةِ. قَالَتْ: لا. وَالَّذِي بَعَثَكَ بِالْحَقِّ إِنَّهُ لَكَاذِبٌ. فَبَدَأَ بِالرَّجُلِ فَشَهِدَ أَرْبَعَ شَهَادَاتٍ بِاللهِ إِنَّهُ لَمِنَ الصَّادِقِينَ، وَالْخَامِسَةُ أَنَّ لَعْنَةَ اللهِ عَلَيْهِ إِنْ كَانَ مِنَ الْكَاذِبِينَ. ثُمَّ ثَنَّى بِالْـمَرْأَةِ فَشَهِدَتْ أَرْبَعَ شَهَادَاتٍ بِاللهِ إِنَّهُ لَمِنَ الْكَاذِبِينَ، وَالْخَامِسَةُ أَنَّ غَضَبَ اللهِ عَلَيْهَا إِنْ كَانَ مِنَ الصَّادِقِينَ. ثُمَّ فَرَّقَ بَيْنَهُمَا.

[3291–000].[iv] ʿAlī ibn Ḥujr al-Saʿdī narrated to me: ʿĪsā ibn Yūnus narrated; ʿAbd al-Malik ibn Abi Sulaymān narrated; I heard Saʿīd ibn Jubayr who said: **‘During the time of Muṣʿab ibn al-Zubayr I was asked about the case of a couple who go through the process of mutual self-cursing, and I did not know what answer to give. I went to see ʿAbdullāh ibn ʿUmar. I said: “Are the couple who go through mutual self-cursing separated?”…’ he added the same as Ibn Numayr’s narration.**

وَحَدَّثَنِيهِ عَلِيُّ بْنُ حُجْرٍ السَّعْدِيُّ، حَدَّثَنَا عِيسَى بْنُ يُونُسَ، حَدَّثَنَا عَبْدُ الْـمَلِكِ بْنُ أَبِي سُلَيْمَانَ قَالَ: سَمِعْتُ سَعِيدَ بْنَ جُبَيْرٍ قَالَ: سُئِلْتُ عَنِ الْـمُتَلاَعِنَيْنِ، زَمَنَ مُصْعَبِ بْنِ الزُّبَيْرِ، فَلَمْ أَدْرِ مَا أَقُولُ. فَأَتَيْتُ عَبْدَ اللهِ بْنَ عُمَرَ فَقُلْتُ: أَرَأَيْتَ الْـمُتَلاَعِنَيْنِ أَيُفَرَّقُ بَيْنَهُمَا؟ ثُمَّ ذَكَرَ بِمِثْلِ حَدِيثِ ابْنِ نُمَيْرٍ.

[3292–5]. (Dar al-Salam 3557) Yaḥyā ibn Yaḥyā, Abu Bakr ibn Abi Shaybah and Zuhayr ibn Ḥarb narrated (Yaḥyā’s text):[v] Sufyān ibn ʿUyaynah (Yaḥyā said: ‘reported’ and the other two said:

‘narrated’); from ʿAmr; from Saʿīd ibn Jubayr; from Ibn ʿUmar who said: **‘God’s Messenger (peace be upon him) said to the couple who exchanged self-cursing: “Both of you are accountable to God, as one of you is lying. You have no access to her”. [The man] said: “Messenger of God, what about my money?” The Prophet said: “You have no claim. If you have told the truth, it was in return for your legitimate consort with her, but if you lied against her, it is even farther away from you”.’**

Zuhayr said in his narration: **Sufyān narrated from ʿAmr that he heard Saʿīd ibn Jubayr say: I heard Ibn ʿUmar say: ‘God’s Messenger (peace be upon him) said…’.**

وَحَدَّثَنَا يَحْيَى بْنُ يَحْيَى، وَأَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، وَزُهَيْرُ بْنُ حَرْبٍ (وَاللَّفْظُ لِيَحْيَى). (قَالَ يَحْيَى أَخْبَرَنَا وَقَالَ الآخَرَانِ حَدَّثَنَا) سُفْيَانُ بْنُ عُيَيْنَةَ، عَنْ عَمْرٍو، عَنْ سَعِيدِ بْنِ جُبَيْرٍ، عَنِ ابْنِ عُمَرَ قَالَ: قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ لِلْـمُتَلاَعِنَيْنِ: «حِسَابُكُمَا عَلَى اللهِ، أَحَدُكُمَا كَاذِبٌ. لاَ سَبِيلَ لَكَ عَلَيْهَا» . قَالَ: يَا رَسُولَ اللهِ مَالِي. قَالَ: «لا مَالَ لَكَ. إِنْ كُنْتَ صَدَقْتَ عَلَيْهَا، فَهْوَ بِمَا اسْتَحْلَلْتَ مِنْ فَرْجِهَا. وَإِنْ كُنْتَ كَذَبْتَ عَلَيْهَا، فَذَاكَ أَبْعَدُ لَكَ مِنْهَا».

قَالَ زُهَيْرٌ فِي رِوَايَتِهِ: حَدَّثَنَا سُفْيَانُ عَنْ عَمْرٍو، سَمِعَ سَعِيدَ بْنَ جُبَيْرٍ يَقُولُ: سَمِعْتُ ابْنَ عُمَرَ يَقُولُ: قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ.

[3293–6]. (Dar al-Salam 3558) Abu al-Rabīʿ al-Zahrānī narrated to me:[vi] Ḥammād narrated; from Ayyūb; from Saʿīd ibn Jubayr; from Ibn ʿUmar who said: **‘God’s Messenger (peace be upon him)**

separated the couple from the al-ʿAjlān clan and said: “God knows that one of you is a liar. Will either of you repent?”’

وَحَدَّثَنِي أَبُو الرَّبِيعِ الزَّهْرَانِيُّ، حَدَّثَنَا حَمَّادٌ، عَنْ أَيُّوبَ، عَنْ سَعِيدِ بْنِ جُبَيْرٍ، عَنِ ابْنِ عُمَرَ قَالَ: فَرَّقَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ بَيْنَ أَخَوَيْ بَنِي الْعَجْلاَنِ. وَقَالَ: «اللهُ يَعْلَمُ أَنَّ أَحَدَكُمَا كَاذِبٌ، فَهَلْ مِنْكُمَا تَائِبٌ»؟

[3294–000]. (Dar al-Salam 3559) Ibn Abi ʿUmar narrated: Sufyān narrated; from Ayyūb. He heard Saʿīd ibn Jubayr say: **‘I asked Ibn ʿUmar about mutual self-cursing…’ he added the same from the Prophet (peace be upon him).**

وَحَدَّثَنَاهُ ابْنُ أَبِي عُمَرَ، حَدَّثَنَا سُفْيَانُ، عَنْ أَيُّوبَ، سَمِعَ سَعِيدَ بْنَ جُبَيْرٍ قَالَ: سَأَلْتُ ابْنَ عُمَرَ عَنِ اللِّعَانِ.. . فَذَكَرَ عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ بِمِثْلِهِ.

[3295–7]. (Dar al-Salam 3560) Abu Ghassān al-Mismaʿī, Muhammad ibn al-Muthannā and Ibn Bashshār narrated (al-Mismaʿī’s and Ibn al-Muthannā’s text):[vii] they said: Muʿādh (who is Ibn Hishām) narrated; my father narrated to me; from Qatādah; from ʿAzrah; from Saʿīd ibn Jubayr. He said: **‘Al-Musʿab did not separate the couple who exchanged mutual cursing. This was mentioned to ʿAbdullāh ibn ʿUmar and he said: “God’s Messenger (peace be upon him) separated the couple from the al-ʿAjlān clan”.’**

وَحَدَّثَنَا أَبُو غَسَّانَ الْمِسْمَعِيُّ، وَمُحَمَّدُ بْنُ الْـمُثَنَّى، وَابْنُ بَشَّارٍ (وَاللَّفْظُ لِلْمِسْمَعِيِّ وَابْنِ الْـمُثَنَّى) قَالُوا: حَدَّثَنَا مُعَاذٌ (وَهُوَ ابْنُ هِشَامٍ)، قَالَ: حَدَّثَنِي أَبِي، عَنْ قَتَادَةَ، عَنْ عَزْرَةَ، عَنْ سَعِيدِ بْنِ جُبَيْرٍ، قَالَ: لَمْ يُفَرِّقِ الْـمُصْعَبُ بَيْنَ الْـمُتَلاَعِنَيْنِ . قَالَ سَعِيدٌ فَذُكِرَ ذَلِكَ لِعَبْدِ اللهِ بْنِ عُمَرَ . فَقَالَ: فَرَّقَ نَبِيُّ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ بَيْنَ أَخَوَيْ بَنِي الْعَجْلاَنِ.

[3296–8]. (Dar al-Salam 3561) Saʿīd ibn Manṣūr and Qutaybah ibn Saʿīd narrated:[viii] both said: Mālik narrated [H]. Also, Yaḥyā ibn Yaḥyā narrated (his text). He said: **‘I said to Mālik: “Did Nāfiʿ narrate to you from Ibn ʿUmar that a man exchanged self-cursing with his wife during God’s Messenger’s lifetime and God’s Messenger separated them and affiliated the child to his mother?” He said: “Yes”.’**

وَحَدَّثَنَا سَعِيدُ بْنُ مَنْصُورٍ، وَقُتَيْبَةُ بْنُ سَعِيدٍ، قَالا: حَدَّثَنَا مَالِكٌ، ح. وَحَدَّثَنَا يَحْيَى بْنُ يَحْيَى (وَاللَّفْظُ لَهُ) قَالَ: قُلْتُ لِـمَالِكٍ: حَدَّثَكَ نَافِعٌ، عَنِ ابْنِ عُمَرَ، أَنَّ رَجُلاً لاعَنَ امْرَأَتَهُ عَلَى عَهْدِ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، فَفَرَّقَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ بَيْنَهُمَا، وَأَلْحَقَ الْوَلَدَ بِأُمِّهِ؟ قَالَ نَعَمْ.

[3297–9]. (Dar al-Salam 3562-3563) Abu Bakr ibn Abi Shaybah narrated: Abu Usāmah narrated [H]. Also, Ibn Numayr narrated; my father narrated; both said: ʿUbaydullāh narrated; from Nāfiʿ; from Ibn ʿUmar. He said: **‘God’s Messenger (peace be upon him) conducted mutual self-cursing between a man from the Anṣār and his wife, then separated them’.**

وَحَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا أَبُو أَسَامَةَ، ح. وَحَدَّثَنَا ابْنُ نُمَيْرٍ، حَدَّثَنَا أَبِي، قَالا: حَدَّثَنَا عُبَيْدُ اللهِ، عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ قَالَ: لاعَنَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ بَيْنَ رَجُلٍ مِنَ الأَنْصَارِ وَامْرَأَتِهِ، وَفَرَّقَ بَيْنَهُمَا.

Muhammad ibn al-Muthannā and ʿUbaydullāh ibn Saʿīd narrated:[ix] both said: Yaḥyā (who is al-Qaṭṭān) narrated; from ʿUbaydullāh; with the same chain of transmission: **the same text.**

وَحَدَّثَنَاهُ مُحَمَّدُ بْنُ الْـمُثَنَّى، وَعُبَيْدُ اللهِ بْنُ سَعِيدٍ، قَالا: حَدَّثَنَا يَحْيَى (وَهُوَ الْقَطَّانُ)، عَنْ عُبَيْدِ اللهِ، بِهَذَا الإِسْنَادِ.

[3298–10]. (Dar al-Salam 3564-3565) Zuhayr ibn Ḥarb, ʿUthmān ibn Abi Shaybah and Isḥāq ibn Ibrāhīm narrated (Zuhayr’s text):[x] Jarīr (Isḥāq said ‘reported’ and the other two said ‘narrated’); from al-Aʿmash; from Ibrāhīm; from ʿAlqamah; from ʿAbdullāh. He said: **‘One Friday night[xi] we were in the mosque when a man from the Anṣār came and said: “If a man finds his wife with a man and he speaks out, you will flog him. Or if he kills, you will kill him. But if he remains silent, he will be in [burning] anger. By God, I shall ask God’s Messenger (peace be upon him) about this”. On the morrow, he came to God’s Messenger (peace be upon him) and asked him, saying: “If a man finds his wife with a man and he speaks out, you will flog him. Or if he kills, you will kill him. But if he remains silent, he will be in [burning] anger”. [The Prophet] said: “Our Lord, guide us”. He continued to supplicate. The verses about mutual cursing**

were revealed: “As for those who accuse their own wives [of adultery] but have no witnesses except themselves…”’ the relevant verses.

‘Out of all people, that man suffered it. He came with his wife to God’s Messenger (peace be upon him) and they exchanged self-cursing. The man called God four times to witness that he was indeed telling the truth, then added a fifth invoking God’s curse on himself if he was telling a lie. The woman wanted to curse, but God’s Messenger said to her: “What”. She insisted and invoked the curse. When they left, the Prophet said: “She may give birth to a dark boy with curly hair”. When she gave birth, her son was dark with curly hair’.

حَدَّثَنَا زُهَيْرُ بْنُ حَرْبٍ، وَعُثْمَانُ بْنُ أَبِي شَيْبَةَ، وَإِسْحَاقُ بْنُ إِبْرَاهِيمَ (وَاللَّفْظُ لِزُهَيْرٍ). (قَالَ إِسْحَاقُ أَخْبَرَنَا وَقَالَ الآخَرَانِ حَدَّثَنَا) جَرِيرٌ، عَنِ الأَعْمَشِ، عَنْ إِبْرَاهِيمَ، عَنْ عَلْقَمَةَ، عَنْ عَبْدِ اللهِ قَالَ: إِنَّا لَيْلَةَ الْجُمُعَةِ فِي الْـمَسْجِدِ إِذْ جَاءَ رَجُلٌ مِنَ الأَنْصَارِ فَقَالَ: لَوْ أَنَّ رَجُلاً وَجَدَ مَعَ امْرَأَتِهِ رَجُلاً فَتَكَلَّمَ جَلَدْتُمُوهُ؟ أَوْ قَتَلَ قَتَلْتُمُوهُ؟ وَإِنْ سَكَتَ سَكَتَ عَلَى غَيْظٍ. وَاللهِ لأَسْأَلَنَّ عَنْهُ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ . فَلَـمَّا كَانَ مِنَ الْغَدِ أَتَى رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، فَسَأَلَهُ فَقَالَ: لَوْ أَنَّ رَجُلاً وَجَدَ مَعَ امْرَأَتِهِ رَجُلاً فَتَكَلَّمَ جَلَدْتُمُوهُ؟ أَوْ قَتَلَ قَتَلْتُمُوهُ؟ أَوْ سَكَتَ سَكَتَ عَلَى غَيْظٍ . فَقَالَ: «اللَّهُمَّ افْتَحْ». وَجَعَلَ يَدْعُو، فَنَزَلَتْ آيَةُ اللِّعَانِ: «وَالَّذِينَ يَرْمُونَ أَزْوَاجَهُمْ وَلَمْ يَكُنْ لَهُمْ شُهَدَاءُ إِلاَّ أَنْفُسُهُمْ ...» هَذِهِ الآيَاتُ. فَابْتُلِيَ بِهِ ذَلِكَ الرَّجُلُ مِنْ بَيْنِ النَّاسِ، فَجَاءَ هُوَ وَامْرَأَتُهُ إِلَى رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، فَتَلاَعَنَا. فَشَهِدَ الرَّجُلُ أَرْبَعَ

شَهَادَاتٍ بِاللهِ إِنَّهُ لَمِنَ الصَّادِقِينَ، ثُمَّ لَعَنَ الْخَامِسَةَ أَنَّ لَعْنَةَ اللهِ عَلَيْهِ إِنْ كَانَ مِنَ الْكَاذِبِينَ. فَذَهَبَتْ لِتَلْعَنَ، فَقَالَ لَهَا رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «مَهْ»؟ فَأَبَتْ، فَلَعَنَتْ. فَلَـمَّا أَدْبَرَا قَالَ: «لَعَلَّهَا أَنْ تَجِيءَ بِهِ أَسْوَدَ جَعْدًا». فَجَاءَتْ بِهِ أَسْوَدَ جَعْدًا.

Isḥāq ibn Ibrāhīm narrated: ʿĪsā ibn Yūnus reported [H]. Also, Abu Bakr ibn Abi Shaybah narrated; ʿAbdah ibn Sulaymān narrated; both from al-Aʿmash; with the same chain of transmission: **a similar text.**

وَحَدَّثَنَاهُ إِسْحَاقُ بْنُ إِبْرَاهِيمَ، أَخْبَرَنَا عِيسَى بْنُ يُونُسَ، ح. وَحَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا عَبْدَةُ بْنُ سُلَيْمَانَ، جَمِيعًا عَنِ الأَعْمَشِ، بِهَذَا الإِسْنَادِ: نَحْوَهُ.

Text Explanation

Scholars differ concerning the termination of the marriage as a result of the mutual self-cursing. Mālik, al-Shāfiʿī and the majority of scholars say that the marriage is terminated by the process itself, and that no remarriage may take place between them for life in view of these hadiths. However, al-Shāfiʿī and some Mālikī scholars say that the termination of the marriage occurs as a result of the husband going through self-cursing. It is not necessary that the woman does the same. However, other Mālikī scholars say that her self-cursing is a condition for the termination of the marriage. Abu Ḥanīfah said that the termination occurs only as a result of the judge's ruling after the process of mutual self-cursing has been completed. He cites in evidence that in hadith No. 3290 the process of mutual self-cursing was completed and adds: 'He then separated them'. The majority of scholars say that the separation does not require a ruling by the judge because the Prophet told the man in hadith No. 3292: 'You have no access to her'. And in hadith No. 3289: 'He parted with her at the Prophet's place'. Al-Layth said that the mutual self-cursing does not necessitate separation and no separation occurs as a result of it.

Scholars who share the view that the prohibition of remarriage between them is permanent differ on what happens if the man subsequently admitted that he had lied when he accused his wife. Abu Ḥanīfah says that remarriage is then permissible because the cause of its prohibition is thus removed. Mālik, al-Shāfiʿī and others say that she remains forbidden to him to marry for life because of the general sense of the Prophet's words when he told the man: 'You have no access to her'. But, God knows best.

In hadith No. 3287, ʿUwaymir says to the Prophet: 'Messenger of God, if I retain her as my wife, I would have told a lie against her'. This is a separate and complete statement. He then adds: 'She is divorced three times', in confirmation of stating that he would not retain her. He thus divorced her because he thought that mutual self-cursing did not make her

forbidden to him. Therefore, he wanted to confirm this by divorce. Hence, the Prophet said to him: ‘You have no access to her’. This means that he no longer had any claim to her, and that his divorce was invalid. This is clear evidence that the separation between them occurs through the process of mutual self-cursing itself. Our scholars also consider this hadith as providing evidence that pronouncing all three divorces together in one utterance is not forbidden. The evidence is in the fact that the Prophet did not object to ʿUwaymir’s stating the three divorces together. This may be responded to by saying that the Prophet did not object to him because the divorce itself was inapplicable as the man had no right or influence in the case. This objection is countered by the argument that had combining the three divorces been forbidden the Prophet would have pointed that out and he would have said to ʿUwaymir: ‘How do you utter the three divorces together although it is forbidden’, but God knows best.

Ibn Nāfiʿ, a Mālikī scholar, said that the man divorced her three times after the self-cursing process because it is recommended to publicise the divorce after the process, even though the separation had already taken place when the process of self-cursing has been completed. This view is wrong. How can it be recommended for a man to divorce a woman who has become a stranger to him? Muhammad ibn Abu Ṣufrah, a Mālikī scholar, said that separation does not occur by the process of mutual self-cursing itself, basing his argument on the fact that ʿUwaymir divorced his wife and said: ‘If I retain her…’, but the majority of scholars understand this as we have outlined, but God knows best.

The statement made by Ibn Shihāb at the end of hadith No. 3287, ‘Such was the case between a couple exchanging self-cursing,’ is understood by Ibn Nāfiʿ to indicate the preference of divorce after the process, as we have already mentioned. The majority of scholars, however, said that it means that the separation between the couple occurs by the process itself. In hadith No. 3289, the Prophet says: ‘Such is the separation between every couple who exchange such curses’. According to Mālik, al-Shāfiʿī and the majority

of scholars, it means that the separation occurs between any couple who go through mutual self-cursing by the very process itself. It is also said that it means that their remarriage is prohibited for life, as the majority of scholars agree. *Qadi* ʿIyāḍ said that scholars from all regions agree that the mere accusation of adultery by a husband does not make the accused wife forbidden to him, except Abu ʿUbayd who says that the accusation itself makes her forbidden to him, even without going through the process of self-cursing.

Hadith No. 3288 mentions: ‘She was pregnant. Her son was affiliated to her. Then the sunnah was such that he could inherit from her, and she inherits from him whatever God determined as her share’. This hadith shows that it is permissible to go through the process of mutual self-cursing with one’s pregnant wife, and that if the man goes through it and denies being the cause of the pregnancy, the child is not affiliated to him. It will be affiliated to its mother. He inherits from her when she dies and if he dies before her, she inherits from him what God has assigned as the mother’s share, which is one-third of his property if he is not survived by a son or a grandson of his own or by two or more daughters. In any such case, the mother’s share is one-sixth. Scholars unanimously agree that inheritance occurs between that child and his mother, and also between him and the heirs with apportioned shares on his mother’s side. These are his brothers and sisters through his mother and his maternal grandmother(s). If these receive their shares and there remains any residue, it goes to the state treasury. Such is the detailed view of the Shāfiʿī School, and it is agreed by al-Zuhrī, Mālik and Abu Thawr. On the other hand, al-Ḥakam and Ḥammād said that he is inherited by his mother’s heirs, while others said he is inherited by his mother’s paternal relatives. This is reported to be the view of ʿAlī, ʿAbdullāh ibn Masʿūd, ʿAṭā’ and Ahmad ibn Hanbal. Ahmad said: If his mother is his only heir, she takes all his estate. Abu Ḥanīfah agrees but he says that her apportioned share is one-third and she takes the

remainder, adding it for her being his rightful heir. This is according to the rule of his school approving such addition, but God knows best.

Hadith No. 3290 mentions that Ibn ʿUmar was lying on a saddle cloth to take his nap. This indicates Ibn ʿUmar's humility and that he did not care for personal comforts. The hadith mentions that the Prophet recited the relevant verses to the man accusing his wife of adultery. It then says that the Prophet 'admonished and reminded him, telling him that punishment in this life is much lighter than punishment in the life to come'. He did the same when it was the woman's turn to answer. The hadith shows that the ruler, or the judge, should admonish the couple and warn them against swearing a false oath. He should tell them that enduring the mandatory punishment in this life is much lighter than having to suffer punishment in the life to come.

The hadith mentions that the Prophet started with the man and that he called God four times to witness that he was telling the truth. This shows that the process of self-cursing starts with the husband because God mentions him first. Moreover, by swearing these oaths, he frees himself of any charge of false accusation which makes him incur a punishment. He may also negate the parenthood of any pregnancy. *Qadi* ʿIyāḍ and others state that Muslim scholars are agreed upon the start being with the husband. Al-Shāfiʿī and others maintain that if the woman starts the process, her self-cursing is invalid. Abu Ḥanīfah and others say that it is valid. The wording of the oaths in this process is as stated in the above-quoted verses of the Qur'an: (24: 6-9)

In hadith No. 3292 the Prophet says to the couple who went through the process of self-cursing: 'Both of you are accountable to God, as one of you is lying. You have no access to her'. *Qadi* ʿIyāḍ said: 'This appears to have been said after the couple had finished their oaths. The purpose is that the one who was lying should repent. Al-Dāwūdī said that the Prophet said this to them before the start of the process to warn them against false oaths. The first view is better and fits more with the sequence of the case'. The hadith

shows that neither party is punished, although we know that one of them is saying what is untrue, without being certain who the liar is.

The hadith adds: '[The man] said: "Messenger of God, what about my money?**"** The Prophet said: "You have no claim. If you have told the truth, it was in return for your legitimate consort with her; but if you lied against her, it is even farther away from you".' This makes it clear that the dowry becomes the woman's sole property once the marriage has been consummated. It also shows that if the marriage is consummated and the process of mutual self-cursing is subsequently done, her dowry belongs to her and may not be refunded. Both points are unanimously agreed upon. Further, if the woman confesses that she has committed adultery, her dowry remains hers.

In hadith No. 3298, when the man asks the Prophet about the case of finding one's wife in an adulterous position, the Prophet supplicates: 'Our Lord, guide us'. This is a prayer to God to give the ruling in this case.

[3299–11]. (Dar al-Salam 3566) Muhammad ibn al-Muthannā narrated:[xii] ʿAbd al-ʿAlā' narrated; Hishām narrated; from Muhammad. He said: **'I asked Anas ibn Mālik believing that he has knowledge of it. He said: "Hilāl ibn Umayyah accused his wife of adultery with Sharīk ibn Saḥmā', who was al-Barā' ibn Mālik's half-brother on his mother's side. [Hilāl] was the first man to go through mutual self-cursing in Islam. He exchanged curses with her. God's Messenger said: 'Check her. If she gives birth to a child with straight hair and tearful or reddish eyes, the boy belongs to Hilāl ibn Umayyah, but if the child has dark eyes, curly hair and thin shanks, the boy belongs to Sharīk ibn Shaḥmā". I was told that she gave birth to a boy with dark eyes, curly hair and thin shanks".'**

وَحَدَّثَنَا مُحَمَّدُ بْنُ الْـمُثَنَّى، حَدَّثَنَا عَبْدُ الأَعْلَى، حَدَّثَنَا هِشَامٌ، عَنْ مُحَمَّدٍ قَالَ: سَأَلْتُ أَنَسَ بْنَ مَالِكٍ، وَأَنَا أُرَى أَنَّ عِنْدَهُ مِنْهُ عِلْمًا . فَقَالَ: إِنَّ هِلاَلَ بْنَ أُمَيَّةَ قَذَفَ امْرَأَتَهُ بِشَرِيكِ ابْنِ سَحْمَاءَ، وَكَانَ أَخَا الْبَرَاءِ بْنِ مَالِكٍ لأُمِّهِ. وَكَانَ أَوَّلَ رَجُلٍ لاَعَنَ فِي الإِسْلاَمِ. قَالَ: فَلاَعَنَهَا. فَقَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «أَبْصِرُوهَا، فَإِنْ جَاءَتْ بِهِ أَبْيَضَ سَبِطًا، قَضِيءَ الْعَيْنَيْنِ، فَهُوَ لِهِلاَلِ بْنِ أُمَيَّةَ. وَإِنْ جَاءَتْ بِهِ أَكْحَلَ، جَعْدًا حَمْشَ السَّاقَيْنِ، فَهُوَ لِشَرِيكِ ابْنِ سَحْمَاءَ». قَالَ: فَأُنْبِئْتُ أَنَّهَا جَاءَتْ بِهِ أَكْحَلَ جَعْدًا حَمْشَ السَّاقَيْنِ.

[3300–12]. (Dar al-Salam 3567) Muhammad ibn Rumḥ ibn al-Muhājir and ʿĪsā ibn Ḥammād, both from Egypt, narrated (Ibn Rumḥ's text):[xiii] both said: al-Layth reported; from Yaḥyā ibn Saʿīd; from ʿAbd al-Raḥmān ibn al-Qāsim; from al-Qāsim ibn Muhammad; from Ibn ʿAbbās. He said: **'Mutual self-cursing was mentioned in the presence of God's Messenger (peace be upon him), and ʿĀṣim ibn ʿAdiy said something, then left. A man from his own people came to him complaining that he found a man with his wife. ʿĀṣim said: "I am only afflicted by this because of what I said". He took him to God's Messenger (peace be upon him) and the man mentioned how he found his wife. That man was yellowish, thin and with straight hair, while the man he claimed to have found with his wife was with full shanks, dark and strong muscles. God's Messenger said: "Our Lord, clarify". She gave birth to a child that was similar to the man her husband said he found her with. The Prophet conducted the process of mutual self-cursing between them'. A**

man present said to Ibn ʿAbbās: ‘Is she the one of whom God’s Messenger said: “Were I to stone anyone without clear proof, I would have stoned this woman?”’ Ibn ʿAbbās said: ‘No. That was a woman who showed indecency in Islam’.

وَحَدَّثَنَا مُحَمَّدُ بْنُ رُمْحِ بْنِ الْـمُهَاجِرِ، وَعِيسَى بْنُ حَمَّادٍ الْمِصْرِيَّانِ (وَاللَّفْظُ لاِبْنِ رُمْحٍ)، قَالا: أَخْبَرَنَا اللَّيْثُ، عَنْ يَحْيَى بْنِ سَعِيدٍ، عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْقَاسِمِ، عَنِ الْقَاسِمِ بْنِ مُحَمَّدٍ، عَنِ ابْنِ عَبَّاسٍ أَنَّهُ قَالَ: ذُكِرَ التَّلاَعُنُ عِنْدَ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، فَقَالَ عَاصِمُ بْنُ عَدِيٍّ فِي ذَلِكَ قَوْلاً، ثُمَّ انْصَرَفَ. فَأَتَاهُ رَجُلٌ مِنْ قَوْمِهِ يَشْكُو إِلَيْهِ أَنَّهُ وَجَدَ مَعَ أَهْلِهِ رَجُلاً . فَقَالَ عَاصِمٌ: مَا ابْتُلِيتُ بِهَذَا إِلاَّ لِقَوْلِي. فَذَهَبَ بِهِ إِلَى رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَأَخْبَرَهُ بِالَّذِي وَجَدَ عَلَيْهِ امْرَأَتَهُ. وَكَانَ ذَلِكَ الرَّجُلُ مُصْفَرًّا، قَلِيلَ اللَّحْمِ سَبِطَ الشَّعَرِ. وَكَانَ الَّذِي ادَّعَى عَلَيْهِ أَنَّهُ وَجَدَ عِنْدَ أَهْلِهِ خَدْلاً، آدَمَ كَثِيرَ اللَّحْمِ. فَقَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «اللَّهُمَّ بَيِّنْ». فَوَضَعَتْ شَبِيهًا بِالرَّجُلِ الَّذِي ذَكَرَ زَوْجُهَا أَنَّهُ وَجَدَهُ عِنْدَهَا. فَلاعَنَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ بَيْنَهُمَا. فَقَالَ رَجُلٌ لاِبْنِ عَبَّاسٍ فِي الْـمَجْلِسِ: أَهِيَ الَّتِي قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «لَوْ رَجَمْتُ أَحَدًا بِغَيْرِ بَيِّنَةٍ رَجَمْتُ هَذِهِ». فَقَالَ ابْنُ عَبَّاسٍ: لا تِلْكَ امْرَأَةٌ كَانَتْ تُظْهِرُ فِي الإِسْلاَمِ السُّوءَ.

[3301–000]. Ahmad ibn Yūsuf al-Azdī narrated the same to me: Ismāʿīl ibn Abi Uways narrated; Sulaymān (meaning Ibn Bilāl) narrated to me; from Yaḥyā; ʿAbd al-Raḥmān ibn al-Qāsim narrated to me; from al-Qāsim ibn Muhammad; from Ibn ʿAbbās. He said: **‘Mutual self-cursing was mentioned in the presence of**

God’s Messenger (peace be upon him)…’ the same as al-Layth’s narration. He added after ‘strong muscles’ that he had curly tangled hair.

وَحَدَّثَنِيهِ أَحْمَدُ بْنُ يُوسُفَ الأَزْدِيُّ، حَدَّثَنَا إِسْمَاعِيلُ بْنُ أَبِي أُوَيْسٍ، حَدَّثَنِي سُلَيْمَانُ (يَعْنِي ابْنَ بِلاَلٍ)، عَنْ يَحْيَى، حَدَّثَنِي عَبْدُ الرَّحْمَنِ بْنُ الْقَاسِمِ، عَنِ الْقَاسِمِ بْنِ مُحَمَّدٍ، عَنِ ابْنِ عَبَّاسٍ أَنَّهُ قَالَ: ذُكِرَ الْـمُتَلاَعِنَانِ عِنْدَ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ... بِمِثْلِ حَدِيثِ اللَّيْثِ. وَزَادَ فِيهِ بَعْدَ قَوْلِهِ: كَثِيرَ اللَّحْمِ، قَالَ: جَعْدًا قَطَطًا.

[3302–13]. (Dar al-Salam 3568) ʿAmr al-Nāqid and Ibn Abi ʿUmar narrated (ʿAmr’s text):[xiv] both said: Sufyān ibn ʿUyaynah narrated; from Abu al-Zinād; from al-Qāsim ibn Muhammad. He said: **‘ʿAbdullāh ibn Shaddād said: “The couple who went through mutual self-cursing were mentioned to Ibn ʿAbbās”. Ibn Shaddād asked: “Are they the ones about whom the Prophet (peace be upon him) said: ‘Were I to stone anyone without clear proof, I would have stoned her?’ Ibn ʿAbbās said: “No. That was a woman who did that unashamedly”.’** Ibn Abi ʿUmar said in his narration from al-Qāsim ibn Muhammad that he said: **‘I heard Ibn ʿAbbās…’.**

وَحَدَّثَنَا عَمْرٌو النَّاقِدُ، وَابْنُ أَبِي عُمَرَ (وَاللَّفْظُ لِعَمْرٍو)، قَالا: حَدَّثَنَا سُفْيَانُ بْنُ عُيَيْنَةَ، عَنْ أَبِي الزِّنَادِ، عَنِ الْقَاسِمِ بْنِ مُحَمَّدٍ قَالَ: قَالَ عَبْدُ اللهِ بْنُ شَدَّادٍ: وَذُكِرَ الْـمُتَلاَعِنَانِ عِنْدَ ابْنِ عَبَّاسٍ، فَقَالَ ابْنُ شَدَّادٍ: أَهُمَا اللَّذَانِ قَالَ النَّبِيُّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «لَوْ كُنْتُ رَاجِمًا أَحَدًا بِغَيْرِ بَيِّنَةٍ

لَرَجَمْتُهَا». فَقَالَ ابْنُ عَبَّاسٍ: «لا». تِلْكَ امْرَأَةٌ أَعْلَنَتْ . قَالَ ابْنُ أَبِي عُمَرَ فِي رِوَايَتِهِ عَنِ الْقَاسِمِ بْنِ مُحَمَّدٍ: قَالَ سَمِعْتُ ابْنَ عَبَّاسٍ.

Text Explanation

Hadith No. 3299 mentions that Hilāl ibn Umayyah accused his wife of adultery with Sharīk ibn Saḥmā’. Sharīk was a Companion of the Prophet who belonged to the Baliy clan of the Anṣār. *Qadi* ʿIyāḍ said that some people claimed that he was a Jew, but this is false.

What these hadiths add is the question put to Ibn ʿAbbās about a certain woman of whom the Prophet said: ‘Were I to stone anyone without clear proof, I would have stoned her’. In hadith No. 2300, Ibn ʿAbbās answered that it was a woman who showed indecency in Islam, and in hadith No. 2302 he said: ‘That was a woman who did that unashamedly’. What these two statements mean is that it was widely known that she committed gross indecency, i.e., adultery, but her offence was not proven through the clear testimony of witnesses or confession. This clearly shows that a mandatory punishment cannot be enforced merely by indications and circulated reports. There must be clear proof through witnesses, or else the offender’s voluntary confession.

[3303–14]. (Dar al-Salam 3569) Qutaybah ibn Saʿīd narrated:[xv] ʿAbd al-ʿAzīz (meaning al-Darāwardī) narrated; from Suhayl; from his father; from Abu Hurayrah; that **‘Saʿd ibn ʿUbādah al-Anṣārī said: “Messenger of God, if a man finds another man with his wife, should he kill him?” God’s Messenger said: “No”. Saʿd said: “Yes, by Him who honoured you with the truth”. The Prophet said: “Listen to what your master says”.’**

حَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ، حَدَّثَنَا عَبْدُ الْعَزِيزِ، (يَعْنِي الدَّرَاوَرْدِيَّ) عَنْ سُهَيْلٍ، عَنْ أَبِيهِ، عَنْ أَبِي هُرَيْرَةَ، أَنَّ سَعْدَ بْنَ عُبَادَةَ الأَنْصَارِيَّ قَالَ: يَا رَسُولَ

اللهِ، أَرَأَيْتَ الرَّجُلَ يَجِدُ مَعَ امْرَأَتِهِ رَجُلاً، أَيَقْتُلُهُ؟ قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «لا». قَالَ سَعْدٌ: بَلَى، وَالَّذِي أَكْرَمَكَ بِالْحَقِّ . فَقَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «اسْمَعُوا إِلَى مَا يَقُولُ سَيِّدُكُمْ».

[3304–15]. (Dar al-Salam 3570) Zuhayr ibn Ḥarb narrated to me:[xvi] Isḥāq ibn ʿĪsā narrated to me; Mālik narrated; from Suhayl; from his father; from Abu Hurayrah; that **‘Saʿd ibn ʿUbādah said: “Messenger of God, if I find a man with my wife, should I leave him alone until I bring four witnesses?” The Prophet said: “Yes”.’**

وَحَدَّثَنِي زُهَيْرُ بْنُ حَرْبٍ، حَدَّثَنِي إِسْحَاقُ بْنُ عِيسَى، حَدَّثَنَا مَالِكٌ، عَنْ سُهَيْلٍ، عَنْ أَبِيهِ، عَنْ أَبِي هُرَيْرَةَ، أَنَّ سَعْدَ بْنَ عُبَادَةَ قَالَ: يَا رَسُولَ اللهِ، إِنْ وَجَدْتُ مَعَ امْرَأَتِي رَجُلاً، أَأُمْهِلُهُ حَتَّى آتِيَ بِأَرْبَعَةِ شُهَدَاءَ؟ قَالَ: «نَعَمْ».

[3305–16]. (Dar al-Salam 3571) Abu Bakr ibn Abi Shaybah narrated: Khālid ibn Makhlad; from Sulaymān ibn Bilāl; Suhayl narrated to me; from his father; from Abu Hurayrah. He said that **‘Saʿd ibn ʿUbādah said: “Messenger of God, if I find a man with my wife, I should not touch him until I bring four witnesses?” God’s Messenger (peace be upon him) said: “Yes”. Saʿd said: “No. By Him who sent you with the message of the truth, I would strike him with the sword before that”. God’s Messenger said: “Listen to what your master says. He is protective, but I am more protective than him, and God is more protective than me”.’**

حَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا خَالِدُ بْنُ مَخْلَدٍ، عَنْ سُلَيْمَانَ بْنِ بِلاَلٍ، حَدَّثَنِي سُهَيْلٌ، عَنْ أَبِيهِ، عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ سَعْدُ بْنُ عُبَادَةَ: يَا رَسُولَ اللهِ لَوْ وَجَدْتُ مَعَ أَهْلِي رَجُلاً، لَمْ أَمَسَّهُ حَتَّى آتِيَ بِأَرْبَعَةِ شُهَدَاءَ؟ قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «نَعَمْ ». قَالَ: كَلاَّ وَالَّذِي بَعَثَكَ بِالْحَقِّ، إِنْ كُنْتُ لأُعَاجِلُهُ بِالسَّيْفِ قَبْلَ ذَلِكَ . قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «اسْمَعُوا إِلَى مَا يَقُولُ سَيِّدُكُمْ. إِنَّهُ لَغَيُورٌ، وَأَنَا أَغْيَرُ مِنْهُ، وَاللهُ أَغْيَرُ مِنِّي».

[3306–17]. (Dar al-Salam 3572) ʿUbaydullāh ibn ʿUmar al-Qawārīrī and Abu Kāmil Fuḍayl ibn Ḥusayn al-Jaḥdarī narrated to me (Abu Kāmil’s text):[xvii] both said: Abu ʿAwānah narrated; from ʿAbd al-Malik ibn ʿUmayr; from Warrād (al-Mughīrah’s scribe); from al-Mughīrah ibn Shuʿbah. He said: **‘Saʿd ibn ʿUbādah said: “If I find a man with my wife, I would strike him with my sword, but not its flat side”. God’s Messenger was informed of this. He said: “Do you wonder at Saʿd being protective? By God, I am more protective than him, and God is more protective than me. It is because of God’s protectiveness that He has forbidden all indecency, open or done in private. No one is more protective than God, and no one likes to warn more than God, and for this reason He sent His messengers to give glad tidings and warn. No one loves praise more than God, and for this reason He has promised heaven”.’**

حَدَّثَنِي عُبَيْدُ اللهِ بْنُ عُمَرَ الْقَوَارِيرِيُّ، وَأَبُو كَامِلٍ فُضَيْلُ بْنُ حُسَيْنٍ الْجَحْدَرِيُّ (وَاللَّفْظُ لأَبِي كَامِلٍ) قَالا: حَدَّثَنَا أَبُو عَوَانَةَ، عَنْ عَبْدِ الْـمَلِكِ

بْنِ عُمَيْرٍ، عَنْ وَرَّادٍ، كَاتِبِ الْـمُغِيرَةِ، عَنِ الْـمُغِيرَةِ بْنِ شُعْبَةَ قَالَ: قَالَ سَعْدُ بْنُ عُبَادَةَ: لَوْ رَأَيْتُ رَجُلاً مَعَ امْرَأَتِي لَضَرَبْتُهُ بِالسَّيْفِ غَيْرَ مُصْفِحٍ عَنْهُ. فَبَلَغَ ذَلِكَ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَقَالَ: أَتَعْجَبُونَ مِنْ غَيْرَةِ سَعْدٍ، فَوَاللهِ لأَنَا أَغْيَرُ مِنْهُ، وَاللهُ أَغْيَرُ مِنِّي. مِنْ أَجْلِ غَيْرَةِ اللهِ حَرَّمَ الْفَوَاحِشَ، مَا ظَهَرَ مِنْهَا وَمَا بَطَنَ، وَلا شَخْصَ أَغْيَرُ مِنَ اللهِ، وَلا شَخْصَ أَحَبُّ إِلَيْهِ الْعُذْرُ مِنَ اللهِ. مِنْ أَجْلِ ذَلِكَ بَعَثَ اللهُ الْـمُرْسَلِينَ مُبَشِّرِينَ وَمُنْذِرِينَ. وَلا شَخْصَ أَحَبُّ إِلَيْهِ الْمِدْحَةُ مِنَ اللهِ. مِنْ أَجْلِ ذَلِكَ وَعَدَ اللهُ الْجَنَّةَ.

[3307–000]. (Dar al-Salam 3573) Abu Bakr ibn Abi Shaybah narrated: Ḥusayn ibn ʿAlī narrated; from Zā’idah; from ʿAbd al-Malik ibn ʿUmayr; with the same chain of transmission: **the same text, [with the omission of one word that does not change the meaning].**

وَحَدَّثَنَاهُ أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا حُسَيْنُ بْنُ عَلِيٍّ، عَنْ زَائِدَةَ، عَنْ عَبْدِ الْـمَلِكِ بْنِ عُمَيْرٍ، بِهَذَا الإِسْنَادِ: مِثْلَهُ. وَقَالَ: غَيْرَ مُصْفِحٍ. وَلَمْ يَقُلْ عَنْهُ.

Text Explanation

Hadith No. 3303 mentions that ‘Saʿd ibn ʿUbādah asked the Prophet: ‘“If a man finds another man with his wife, should he kill him?” God’s Messenger said: “No”. Saʿd said: “Yes, by Him who honoured you with the truth”. The Prophet said: “Listen to what your master says”.’ And in hadith No. 3305, Saʿd says: ‘No. By Him who sent you with the message of the truth, I would strike him with the sword before that’. Al-Māwardī and other scholars explain that Saʿd did not mean to reject what the Prophet said or act in disobedience of the Prophet. He only wanted to portray the state in which a man could be if he comes home to find his wife in an adulterous position. His anger could be so acute that he would strike the offender with his sword, even if this meant disobedience. The Prophet said to his other Companions: ‘Listen to what your master says’. Saʿd ibn ʿUbādah was the chief of the Khazraj tribe of the Anṣār, but the Prophet did not mean this as he described him as *sayyid*, or master. Ibn al-Anbārī and others said that *sayyid* means the one who excels his community in good traits. They also said that it means a forbearing, clement and good-mannered person. The Prophet invited his Companions to consider carefully what Saʿd said.

In hadith No. 3305, Saʿd says that he would strike the adulterer with his sword, but not with his flat side. He meant he would aim its sharp side at the offender to kill him.

The Prophet describes Saʿd as protective, adding that he is more protective than Saʿd and that God is even more so. The word the Prophet uses here is *ghayrah*, describing Saʿd as *ghayūr*. These words are primarily used nowadays to signify jealousy, but this is not the meaning intended here. The Prophet says in hadith No. 3306: ‘God is more protective than me. It is because of God’s protectiveness that He has forbidden all indecency, open or done in private’. The original meaning of *ghayrah* is prevention. A man is ‘*ghayūr* for his family’ means that he prevents them looking up or speaking to a stranger. As such, *ghayrah* is an honourable

quality because it is protective. Hence, the Prophet describes Saʿd as protective and says that he is more so, and God is even more protective than the Prophet. It is for this reason that He has forbidden all acts of gross indecency. He wants people to refrain from these in all situations. As it applies to people, *ghayrah* is coupled with being disturbed and upset, but this does not apply to God Almighty.

In the same hadith, No. 3306, the Prophet says: 'No one is more protective than God, and no one likes to warn more than God, and for this reason He sent His messengers to give glad tidings and warn. No one loves praise more than God, and for this reason He has promised heaven'. This means that it is not possible that anyone can be more protective than God, and it cannot even be imagined. Therefore, everyone should learn from the way God treats His servants. He does not hasten their punishment, but He warns them and repeats His warnings and gives them respite. Therefore, man should not hasten to kill or punish when such a punishment has not become applicable. God does not inflict punishment immediately, even though, if He did, it would be in justice.

The Prophet adds that no one likes to warn more than God. The warning precedes the infliction of punishment. Hence God sent His messengers to give the warning. He said: 'We would never inflict punishment on anyone until We have sent a messenger' to give warning. (17: 15) The hadith adds that God loves to be praised and for this reason He has promised heaven. This means that as He has promised people to be in heaven and shown how fine it is, people love it and often pray to Him to grant them admission into it, praising and glorifying Him, but God knows best.

[3308–18]. (Dar al-Salam 3574) Qutaybah ibn Saʿīd, Abu Bakr ibn Abi Shaybah, ʿAmr al-Nāqid and Zuhayr ibn Ḥarb narrated (Qutaybah's text):[xviii] they said: Sufyān ibn ʿUyaynah narrated;

from al-Zuhrī; from Saʿīd ibn al-Musayyib; from Abu Hurayrah. He said: **‘A man from the Fazārah tribe came to the Prophet and said to him that his wife gave birth to a black boy. The Prophet asked him: “Do you have any camels?” The man said: “Yes”. The Prophet asked: “What colour are they?” He said: “Reddish”. The Prophet asked: “Does any of them tend to be nearly black?” The man said: “Some of them are dark”. The Prophet said: “How come they are so?” The man said: “It may be going back to their [original] roots”. The Prophet said: “And this child may be going back to his original roots”.’**

وَحَدَّثَنَاهُ قُتَيْبَةُ بْنُ سَعِيدٍ، وَأَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، وَعَمْرٌو النَّاقِدُ، وَزُهَيْرُ بْنُ حَرْبٍ (وَاللَّفْظُ لِقُتَيْبَةَ) قَالُوا: حَدَّثَنَا سُفْيَانُ بْنُ عُيَيْنَةَ، عَنِ الزُّهْرِيِّ، عَنْ سَعِيدِ بْنِ الْـمُسَيَّبِ، عَنْ أَبِي هُرَيْرَةَ قَالَ: جَاءَ رَجُلٌ مِنْ بَنِي فَزَارَةَ إِلَى النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَقَالَ: إِنَّ امْرَأَتِي وَلَدَتْ غُلاَمًا أَسْوَدَ . فَقَالَ النَّبِيُّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «هَلْ لَكَ مِنْ إِبِلٍ»؟ قَالَ نَعَمْ . قَالَ: «فَمَا أَلْوَانُهَا»؟ قَالَ: حُمْرٌ . قَالَ: «هَلْ فِيهَا مِنْ أَوْرَقَ»؟ قَالَ: إِنَّ فِيهَا لَوُرْقًا . قَالَ: «فَأَنَّى أَتَاهَا ذَلِكَ»؟ قَالَ: عَسَى أَنْ يَكُونَ نَزَعَهُ عِرْقٌ . قَالَ: «وَهَذَا عَسَى أَنْ يَكُونَ نَزَعَهُ عِرْقٌ».

[3309–19]. (Dar al-Salam 3575) Isḥāq ibn Ibrāhīm, Muhammad ibn Rāfiʿ and ʿAbd ibn Ḥumayd narrated:[xix] ʿAbd al-Razzāq (Ibn Rāfiʿ said: ‘narrated’ and the other two said: ‘reported’); Maʿmar reported [H]. Also, Ibn Rāfiʿ narrated; Ibn Abi Fudayk narrated; Ibn Abi Dhi’b reported; all from al-Zuhrī, with the same chain of transmission: **a similar text to Ibn ʿUyaynah’s narration, except**

that in Maʿmar's narration the man says: 'Messenger of God, my wife has given birth to a black boy. He was hinting that he wished to disown the child'. He adds at the end that '[the Prophet] did not allow him to disown the child'.

وَحَدَّثَنَا إِسْحَاقُ بْنُ إِبْرَاهِيمَ، وَمُحَمَّدُ بْنُ رَافِعٍ، وَعَبْدُ بْنُ حُمَيْدٍ، (قَالَ ابْنُ رَافِعٍ حَدَّثَنَا وَقَالَ الآخَرَانِ أَخْبَرَنَا) عَبْدُ الرَّزَّاقِ، أَخْبَرَنَا مَعْمَرٌ، ح. وَحَدَّثَنَا ابْنُ رَافِعٍ، حَدَّثَنَا ابْنُ أَبِي فُدَيْكٍ، أَخْبَرَنَا ابْنُ أَبِي ذِئْبٍ، جَمِيعًا عَنِ الزُّهْرِيِّ، بِهَذَا الإِسْنَادِ: نَحْوَ حَدِيثِ ابْنِ عُيَيْنَةَ . غَيْرَ أَنَّ فِي حَدِيثِ مَعْمَرٍ: فَقَالَ يَا رَسُولَ اللهِ وَلَدَتِ امْرَأَتِي غُلاَمًا أَسْوَدَ، وَهُوَ حِينَئِذٍ يُعَرِّضُ بِأَنْ يَنْفِيَهُ . وَزَادَ فِي آخِرِ الْحَدِيثِ: وَلَمْ يُرَخِّصْ لَهُ فِي الاِنْتِفَاءِ مِنْهُ.

[3310–20]. (Dar al-Salam 3576-3577) Abu al-Ṭāhir and Ḥarmalah ibn Yaḥyā narrated to me (Ḥarmalah's text):[xx] both said: Ibn Wahb reported; Yūnus reported to me; from Ibn Shihāb; from Abu Salamah ibn ʿAbd al-Raḥmān; from Abu Hurayrah; that **'A Bedouin came to God's Messenger (peace be upon him) and said: "Messenger of God, my wife has given birth to a black boy, and I dislike it". The Prophet said: "Do you have any camels?" The man said: "Yes". The Prophet asked: "What colour are they?" The man said: "Reddish". The Prophet said: "Do they include any that are nearly black?" The man said: "Yes". The Prophet said: "How come?" The man said: "It may be, Messenger of God, that it goes back to its original roots". The Prophet said: "And this boy may be going back to his original roots".'**

وَحَدَّثَنِي أَبُو الطَّاهِرِ، وَحَرْمَلَةُ بْنُ يَحْيَى (وَاللَّفْظُ لِحَرْمَلَةَ) قَالا: أَخْبَرَنَا ابْنُ وَهْبٍ، أَخْبَرَنِي يُونُسُ، عَنِ ابْنِ شِهَابٍ، عَنْ أَبِي سَلَمَةَ بْنِ عَبْدِ الرَّحْمَنِ، عَنْ أَبِي هُرَيْرَةَ، أَنَّ أَعْرابِيّاً أتى رسُولَ الله صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَقَالَ: يَا رَسُولَ اللهِ إِنَّ امْرَأَتِي وَلَدَتْ غُلاَمًا أَسْوَدَ، وَإِنِّي أَنْكَرْتُهُ. فَقَالَ لَهُ النَّبِيُّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «هَلْ لَكَ مِنْ إِبِلٍ»؟ قَالَ نَعَمْ . قَالَ: «مَا أَلْوَانُهَا» ؟ قَالَ: حُمْرٌ . قَالَ: «فَهَلْ فِيهَا مِنْ أَوْرَقَ»؟ قَالَ نَعَمْ. قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «فَأَنَّى هُوَ»؟ قَالَ: لَعَلَّهُ يَا رَسُولَ اللهِ يَكُونُ نَزَعَهُ عِرْقٌ لَهُ . فَقَالَ لَهُ النَّبِيُّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «وَهَذَا لَعَلَّهُ يَكُونُ نَزَعَهُ عِرْقٌ لَهُ».

Muhammad ibn Rāfiʿ narrated to me: Ḥujayn narrated; al-Layth narrated; from ʿUqayl; from Ibn Shihāb; that he said: **‘We have been informed that Abu Hurayrah used to narrate a similar hadith to their narration from God’s Messenger (peace be upon him)’.**

وَحَدَّثَنِي مُحَمَّدُ بْنُ رَافِعٍ، حَدَّثَنَا حُجَيْنٌ، حَدَّثَنَا اللَّيْثُ، عَنْ عُقَيْلٍ، عَنِ ابْنِ شِهَابٍ، أَنَّهُ قَالَ: بَلَغَنَا أَنَّ أَبَا هُرَيْرَةَ، كَانَ يُحَدِّثُ عَنْ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ بِنَحْوِ حَدِيثِهِمْ.

Text Explanation

The man answered the Prophet's question about the colours of his camels saying that they are reddish, which means that they were closer to white but have a reddish tinge. The Prophet asks him whether any of them tended to be darker, closer to black. The man confirms this explaining it that it may come from a hereditary strain going back to their origins. The Prophet applies the same to the child. The hadith makes it clear that a child is affiliated to its father, even though the two may be of different colours. It is not lawful for the father to deny his parenthood of the child only because they differ in colour. Nor is it right if both parents are white and the child is black, or the opposite, because all this may be due to a hereditary strain.

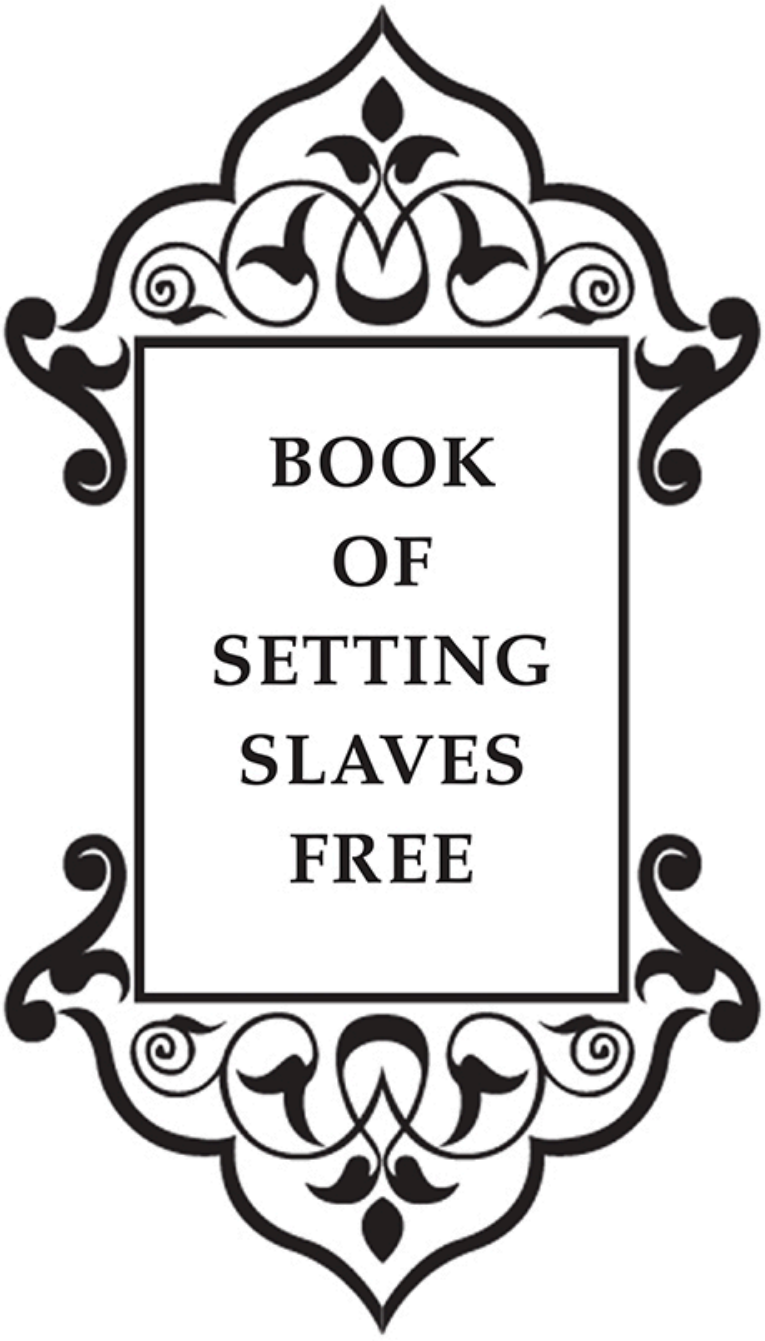
The hadith shows that a hint at a desire to deny parenthood does not constitute such denial, nor does a hint of accusation of adultery constitute such an accusation. This is the view of al-Shāfiʿī and other scholars. The hadith confirms that analogy is valid, and that similarities may be drawn and taken as secondary evidence. Further, the hadith shows that it is important to safeguard parenthood, and that a child is affiliated to its parent wherever this is possible.

In hadith No. 3310, the man says to the Prophet: 'My wife has given birth to a black boy, and I dislike it'. This means that he entertained thoughts that the child might not be his. His words do not constitute a clear negation of parenthood, but God knows best.

i. This book is not divided into chapters, because it deals with one particular topic. As it includes twenty hadiths, some of which are long, I will divide them according to the different aspects they address in order to keep the explanation close to the hadiths to which they refer.

ii. Related by al-Bukhari, 5259, 5309, 423, 4745, 4746, 6854, 7165 and 7304; Abu Dāwūd, 2245, 2247, 2248, 2249, 2250, 2251 and 2252; al-Nasā'ī, 3402; Ibn Mājah, 2066.

iii. Related by al-Tirmidhī, 1202 and 3178; al-Nasā'ī, 3473.
iv. This hadith is attached to the previous one in Dar al-Salam's edition.
v. Related by al-Bukhari, 5312 and 5350; Abu Dāwūd, 2257; al-Nasā'ī, 3476.
vi. Related by al-Bukhari, 5311, 5312 and 5349; Abu Dāwūd, 2258; al-Nasā'ī, 3475.
vii. Related by al-Nasā'ī, 3474.
viii. Related by al-Bukhari, 5315 and 6748; Abu Dāwūd, 2259; al-Tirmidhī, 1203; al-Nasā'ī, 3477; Ibn Mājah, 2069.
ix. Related by al-Bukhari, 5314.
x. Related by Abu Dāwūd, 2253; Ibn Mājah, 2068.
xi. In Islam, the day starts at sunset which means that the night precedes the day. Therefore, Friday night means the one before Friday, while in our modern usage it is referred to as Thursday night.
xii. Related by al-Nasā'ī, 3468 and 3469.
xiii. Related by al-Bukhari, 5310, 5316 and 6856; al-Nasā'ī, 3470 and 3471.
xiv. Related by al-Bukhari, 6855 and 7238; Ibn Mājah, 2560.
xv. Related by Abu Dāwūd, 4532; Ibn Mājah, 2605.
xvi. Related by Abu Dāwūd, 4533.
xvii. Related by al-Bukhari in a shorter version, 6846 and 7416.
xviii. Related by Abu Dāwūd, 2260; al-Tirmidhī, 2128; al-Nasā'ī, 3478; Ibn Mājah, 2002.
xix. Related by Abu Dāwūd, 2261; al-Nasā'ī, 3479.
xx. Related by al-Bukhari, 7314; Abu Dāwūd, 2262.


BOOK
OF
SETTING
SLAVES
FREE

CHAPTER 0

SETTING SLAVES FREE

[3311–1]. (Dar al-Salam 3578-3579) Yaḥyā ibn Yaḥyā narrated:[i] he said: I said to Mālik: Did Nāfiʿ narrate to you; from Ibn ʿUmar that **‘God’s Messenger (peace be upon him) said: “If a person sets free his share in a slave and he has an amount of money equal to the full price of that slave, the slave is valued against him in equity. He gives his partners [in the slave] the value of their shares and the slave would be wholly freed by him. Otherwise, he has freed the share he had”.’**

حَدَّثَنَا يَحْيَى بْنُ يَحْيَى قَالَ: قُلْتُ لِـمَالِكٍ: حَدَّثَكَ نَافِعٌ، عَنِ ابْنِ عُمَرَ قَالَ: قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: مَنْ أَعْتَقَ شِرْكًا لَهُ فِي عَبْدٍ، فَكَانَ لَهُ مَالٌ يَبْلُغُ ثَمَنَ الْعَبْدِ، قُوِّمَ عَلَيْهِ قِيمَةَ الْعَدْلِ، فَأُعْطِيَ شُرَكَاؤُهُ حِصَصَهُمْ، وَعَتَقَ عَلَيْهِ الْعَبْدُ. وَإِلاَّ فَقَدْ عَتَقَ مِنْهُ مَا عَتَقَ.

Qutaybah ibn Saʿīd and Muhammad ibn Rumḥ narrated the same:[ii] both from al-Layth ibn Saʿd [H]. Also, Shaybān ibn Farrūkh narrated; Jarīr ibn Ḥāzim narrated [H]. And Abu al-Rabīʿ and Abu Kāmil narrated; both said: Ḥammād narrated; Ayyūb narrated [H]. Further, Ibn Numayr narrated; my father narrated; ʿUbaydullāh narrated [H]. Also, Muhammad ibn al-Muthannā narrated; ʿAbd al-Wahhāb narrated; he said: I heard Yaḥyā ibn Saʿīd [H]. And Isḥāq

ibn Manṣūr narrated to me; ʿAbd al-Razzāq reported; from Ibn Jurayj; Ismāʿīl ibn Umayyah reported to me [H]. Further, Ḥārūn ibn Saʿīd al-Aylī narrated; Ibn Wahb narrated; Usāmah reported to me [H]. Also, Muhammad ibn Rāfiʿ narrated; Ibn Abi Fudayk narrated; from Ibn Abi Dhi'b: all of these from Nāfiʿ; from Ibn ʿUmar: **the same meaning as Mālik's narration from Nāfiʿ.**

وَحَدَّثَنَاهُ قُتَيْبَةُ بْنُ سَعِيدٍ، وَمُحَمَّدُ بْنُ رُمْحٍ، جَمِيعًا عَنِ اللَّيْثِ بْنِ سَعْدٍ، ح. وَحَدَّثَنَا شَيْبَانُ بْنُ فَرُّوخَ، حَدَّثَنَا جَرِيرُ بْنُ حَازِمٍ، ح. وَحَدَّثَنَا أَبُو الرَّبِيعِ وَأَبُو كَامِلٍ قَالا: حَدَّثَنَا حَمَّادٌ، حَدَّثَنَا أَيُّوبُ، ح. وَحَدَّثَنَا ابْنُ نُمَيْرٍ، حَدَّثَنَا أَبِي، حَدَّثَنَا عُبَيْدُ اللهِ، ح. وَحَدَّثَنَا مُحَمَّدُ بْنُ الْـمُثَنَّى، حَدَّثَنَا عَبْدُ الْوَهَّابِ قَالَ: سَمِعْتُ يَحْيَى بْنَ سَعِيدٍ، ح. وَحَدَّثَنِي إِسْحَاقُ بْنُ مَنْصُورٍ، أَخْبَرَنَا عَبْدُ الرَّزَّاقِ، عَنِ ابْنِ جُرَيْجٍ، أَخْبَرَنِي إِسْمَاعِيلُ بْنُ أُمَيَّةَ، ح. وَحَدَّثَنَا هَارُونُ بْنُ سَعِيدٍ الأَيْلِيُّ، حَدَّثَنَا ابْنُ وَهْبٍ، أَخْبَرَنِي أُسَامَةُ، ح. وَحَدَّثَنَا مُحَمَّدُ بْنُ رَافِعٍ، حَدَّثَنَا ابْنُ أَبِي فُدَيْكٍ، عَنِ ابْنِ أَبِي ذِئْبٍ: كُلُّ هَؤُلاَءِ عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ، بِمَعْنَى حَدِيثِ مَالِكٍ عَنْ نَافِعٍ.

Clarification: On Islam and Slavery

Slavery has been practised in the world for thousands of years. It is part of the human system of the powerful subjugating the weak. Hence, it was practised in all communities and civilisations. Although our modern world prides itself on the abolition of slavery, it continues under a different guise, and it is given different names, such as colonialism, imperialism, etc. There are other forms of subjugation of weaker people, including the trafficking of children and adults into sexual slavery.

At the advent of Islam, slavery was a world-wide system, with different nations adopting different methods of enslaving people. Islam stopped all methods and sources of slavery except captives of war. As this was an international system, Islam could not unilaterally stop it. However, under Islam, captives of war could only be enslaved if the ruler of the Muslim state imposed such measures on them. The rule that limits his authority in this regard is the Qur'anic verse that says: 'Now when you meet the unbelievers in battle, smite their necks. Then when you have thoroughly subdued them, bind them firmly. Thereafter, set them free either by an act of grace or against ransom, until war shall lay down its burden'. (47: 4) Thus, the preferred option for any Muslim ruler is either to set such captives of war free for ransom or as an act of grace.

Having annulled other sources, Islam went further to ensure that slaves were freed in Muslim society. It made the freeing of a slave the atonement required for several offences, such as manslaughter, *ẓihār*, which means calling one's wife unlawful to oneself, sexual intercourse with one's wife during a fasting day, a broken oath, etc. Furthermore, Islam promised very rich reward for the freeing of a slave who was a believer. That reward was nothing short of admittance into heaven. God says: 'Yet man would not scale the Ascent'. The Ascent is a barrier preventing man's entry into heaven. 'Would that you knew what the Ascent is. It is the freeing of a slave'. (90: 11-13) The Prophet made it clear that whoever freed a Muslim slave, freed himself from the fire of Hell. What is more, if a master said in jest that his slave was free, the slave was actually freed, and the master no longer had any authority over him. Another aspect of the Islamic method of freeing slaves was such whereby a slave demanded to buy his own freedom. The master had to accept, and they would then agree a price. The slave would then work in his spare time to raise the price and the Muslim state was obliged to help him with zakat funds.

In the treatment of slaves, Islam set the ultimate standard of fairness. The Prophet said: 'Your slaves are your brothers. Whoever has a brother

under him should feed him of the same food he eats and clothe him of the same type of clothes he wears. Do not charge them with tasks beyond what they can cope with, and if you have to do that, then help them'. (Related by al-Bukhari and Muslim)

With regard to female slaves, a master could consort with her. This became publicly known and once she gave birth to a child, her status changed to that of mother-of-child, which meant that she was part of her master's household and could no longer be sold on. If her master died, she was inherited by her child and this gave her full freedom, because a child cannot own its mother.

A question that has been raised in recent years has resulted from the attitude of some extremist groups, such as ISIS and al-Qaeda, who impose slavery on their opponents. Unfortunately, the practices of such groups are often laid at the door of Islam, as if they are the model representatives of our faith. The answer is that their claims to be the true representatives of Islam and to run an Islamic state are certainly false and their practice of imposing slavery on their captives is un-Islamic.

i. Related by al-Bukhari, 3522; Abu Dāwūd, 3940; Ibn Mājah, 2528.

ii. This hadith is related in different anthologies, limited to one or other of the chains of transmission.

CHAPTER 1

A SLAVE’S SPARE TIME WORK

[3312–2]. (Dar al-Salam 3580) Muhammad ibn al-Muthannā and Ibn Bashshār narrated (Ibn al-Muthannā’s text):[i] both said: Muhammad ibn Jaʿfar narrated; Shuʿbah narrated; from Qatādah; from al-Naḍr ibn Anas; from Bashīr ibn Nahīk; from Abu Hurayrah; from the Prophet (peace be upon him). He said **about a slave owned by two people, but one of them sets his share free. The Prophet said: ‘He guarantees’.**

وَحَدَّثَنَا مُحَمَّدُ بْنُ الْـمُثَنَّى، وَابْنُ بَشَّارٍ (وَاللَّفْظُ لِابْنِ الْـمُثَنَّى) قَالا: حَدَّثَنَا مُحَمَّدُ بْنُ جَعْفَرٍ، حَدَّثَنَا شُعْبَةُ، عَنْ قَتَادَةَ، عَنِ النَّضْرِ بْنِ أَنَسٍ، عَنْ بَشِيرِ بْنِ نَهِيكٍ، عَنْ أَبِي هُرَيْرَةَ، عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: قَالَ فِي الْـمَمْلُوكِ بَيْنَ الرَّجُلَيْنِ فَيُعْتِقُ أَحَدُهُمَا، قَالَ: «يَضْمَنُ».

[3313–3]. (Dar al-Salam 3581) ʿAmr al-Nāqid narrated to me: Ismāʿīl ibn Ibrāhīm narrated; from Ibn Abi ʿArūbah; from Qatādah; from al-Naḍr ibn Anas; from Bashīr ibn Nahīk; from Abu Hurayrah; from the Prophet (peace be upon him). He said: **‘Whoever frees a share he owns in a slave, the freedom of the remainder is paid by him if he has the money. If he does not, the slave may work without being hard pressed’.**

وَحَدَّثَنِي عَمْرٌو النَّاقِدُ، حَدَّثَنَا إِسْمَاعِيلُ بْنُ إِبْرَاهِيمَ، عَنِ ابْنِ أَبِي عَرُوبَةَ، عَنْ قَتَادَةَ، عَنِ النَّضْرِ بْنِ أَنَسٍ، عَنْ بَشِيرِ بْنِ نَهِيكٍ، عَنْ أَبِي هُرَيْرَةَ، عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: «مَنْ أَعْتَقَ شِقْصًا لَهُ فِي عَبْدٍ، فَخَلاَصُهُ فِي مَالِهِ إِنْ كَانَ لَهُ مَالٌ. فَإِنْ لَمْ يَكُنْ لَهُ مَالٌ، اسْتُسْعِيَ الْعَبْدُ غَيْرَ مَشْقُوقٍ عَلَيْهِ».

[3314–4]. (Dar al-Salam 3582) ʿAlī ibn Khashram narrated: ʿĪsā (meaning Ibn Yūnus) reported; from Saʿīd ibn Abi ʿArūbah; with the same chain of transmission: **the same text, but added: ‘If he does not have the money, the slave is valued in equity, then he is required to work, without being hard pressed, to raise the price of the share of the one who has not freed him’.**

وَحَدَّثَنَاهُ عَلِيُّ بْنُ خَشْرَمٍ، أَخْبَرَنَا عِيسَى (يَعْنِي ابْنَ يُونُسَ)، عَنْ سَعِيدِ بْنِ أَبِي عَرُوبَةَ، بِهَذَا الإِسْنَادِ. وَزَادَ: «إِنْ لَمْ يَكُنْ لَهُ مَالٌ قُوِّمَ عَلَيْهِ الْعَبْدُ قِيمَةَ عَدْلٍ، ثُمَّ يُسْتَسْعَى فِي نَصِيبِ الَّذِي لَمْ يُعْتِقْ، غَيْرَ مَشْقُوقٍ عَلَيْهِ».

[3315–000]. (Dar al-Salam 3583) Ḥārūn ibn ʿAbdullāh narrated to me: Wahb ibn Jarīr narrated; my father narrated. He said: **‘I heard Qatādah narrating with the same chain of transmission a hadith with the same meaning as the narration of Ibn Abi ʿArūbah. He mentioned in the hadith: “He is valued against him in equity”.’**

حَدَّثَنِي هَارُونُ بْنُ عَبْدِ اللهِ، حَدَّثَنَا وَهْبُ بْنُ جَرِيرٍ، حَدَّثَنَا أَبِي قَالَ: سَمِعْتُ قَتَادَةَ يُحَدِّثُ بِهَذَا الإِسْنَادِ: بِمَعْنَى حَدِيثِ ابْنِ أَبِي عَرُوبَةَ. وَذَكَرَ فِي الْحَدِيثِ قُوِّمَ عَلَيْهِ قِيمَةَ عَدْلٍ.

Text Explanation

Hadith No. 3313 and No. 3314 mention the case where a slave is partly freed and that he may work for himself, without being hard pressed, to earn the money needed to buy the rest of his freedom. *Qadi* ʿIyāḍ said:

> The point about the slave being allowed or required to work is subject to controversy among narrators. Al-Dāraquṭnī said: 'This hadith is narrated by Shuʿbah and Hishām from Qatādah, and both are better reporters, but they do not mention the slave's work. Hammām agrees with them, separating the mention of the slave's work from the rest of the hadith so that it is shown as Qatādah's view. The hadith is related thus by al-Bukhari, and it is the right way… I heard Abu Bakr al-Naisābūrī say: "How excellent Hammām's narration is! And how accurate he is that he isolates Qatādah's view from the hadith…"' Al-Aṣīlī, Ibn al-Qaṣṣār and others said that the ones who do not mention the slave's work are more accurate than those who mention it because it is not mentioned in other hadiths narrated by Ibn ʿUmar. Another eminent scholar, Ibn ʿAbd al-Barr said that those who do not mention the slave's work are more reliable than those who mention it. Other scholars said that in some cases it is mentioned by those who narrate the hadith from Saʿīd ibn Abi ʿArūbah, stating it at times and omitting it at others. This indicates that Saʿīd did not consider it as part of the hadith as mentioned by others. But, God knows best.

What is meant by the slave's work is that the slave is required to work and earn until he can pay the price of the share of the other owner. When he has paid it, he is free. This is how it is explained by scholars approving such work. Some said that it means that the slave continues to serve his master who has not freed him in proportion to his share in him. Thus, the hadiths are consistent.

These hadiths make it clear that if a slave is owned by more than one person and one partner frees his share, then the other share in the slave is valued in equity and he is required to pay to his partner(s) the value of their shares if he owns such an amount. This applies whether the partner or the slave is a Muslim or non-Muslim, and whether the slave is a man or a woman. There is no other option for any of the parties: the slave, the owner who freed his share and the other owner(s). This ruling is implemented, even if all of them dislike it, because they owe a duty to God to set that slave free. Scholars are unanimous that the share of the freeing partner is deemed free by his action. However, *Qadi* ʿIyāḍ mentions that Rabīʿah said that this share is not free whether the freeing partner is rich or poor. This is a wrong view, contrary to all authentic hadiths and the unanimity of scholars.

The ruling concerning the partner's share is subject to disagreement among scholars, if the freeing partner is rich. Six different views are given, and the correct one according to the Shāfiʿī School considers that this other share is also freed by the same act of setting the first share free. The value of the other partner's share is estimated on the day the freeing took place and becomes payable to that partner. The allegiance of the freed slave is totally to the freeing partner. The freed slave acquires the same rulings as all free people in inheritance and other matters from the moment he is set free. The other partner has no right other than claiming the price of his share, in the same way as though the slave was killed by one partner. This view of the Shāfiʿī School is endorsed by Ibn Shibrimah, al-Awzāʿī, al-Thawrī, Ibn Abi Laylā, Abu Yūsuf, Muhammad ibn al-Ḥasan, Ahmad ibn Ḥanbal and some Mālikī scholars. All these scholars also said that if the freeing partner subsequently becomes unable to pay the price of the other share in the slave, the slave remains free, and the unpaid share remains as a debt owed by the freeing partner. If he dies, it is taken from his estate, and if he dies penniless, the owed amount is considered lost, but the slave remains free. They add that if the other partner sets his share in the slave free after the

first partner has done so, this second act of freeing is redundant, because the slave is already free by the freeing of the first share.

The second view is that the slave only becomes free when the value of the unfreed share has been paid. This is the well-known Mālikī view, and the view of the Ẓāhirī School and Imam al-Shāfiʿī. The third is Abu Ḥanīfah's view. The other partner has two options: either to let the slave work until he has paid him the price of his share or to set his share free and the slave's allegiance would be shared between the two partners. Alternatively, he takes the value of his share from his partner who freed his share. This partner can now ask the slave to work until he has repaid him the value of that share he has given to his partner. The slave's loyalty would be owed totally to the freeing partner. Abu Ḥanīfah adds that during this time, up to the full payment of his value, the slave's liability is the same as one who has entered an agreement to buy his own freedom. The fourth view is stated by ʿUthmān al-Laythī who says that the freeing partner owes nothing except in the case of the slave being a pretty maid who is sought for sex. In this case, the freeing partner owes to his partner compensation for the consequences of his action. The fifth view is mentioned by Ibn Sīrīn who says that the value of the remaining share is paid by the state treasury and the last view quotes Ibn Rāhawayh who considers the ruling applicable to male slaves only. This last view is odd and contrary to the view of all scholars. The previous three views are also invalid because they are contrary to the clear meaning of the hadiths. As such, they are rejected.

All the previous views relate to the case when the freeing partner is well off. If the freeing partner is in straitened financial circumstances, scholars hold four different views. The first is shared by Mālik, al-Shāfiʿī, Ahmad, Abu ʿUbayd and others. It says that only the share owned by the freeing partner is freed. This partner is asked not to do anything else. The slave is not required to work but remains a slave of the other partner on the same terms as before. The same view is expressed by Hijāzī scholars on the basis of the hadith narrated by Ibn ʿUmar. The second view is shared by Ibn

Shibrimah, al-Awzāʿī, Abu Ḥanīfah, Ibn Abi Laylā, all Kufi scholars and Isḥāq. They say that the slave is made to work for the share of the other partner. However, these scholars differ with Ibn Abi Laylā saying that the slave claims what he pays out of his work from the one who freed him, while Abu Ḥanīfah and his two closest associates say that the slave may not make such a claim. According to Abu Ḥanīfah, while the slave is working to buy his remaining share, he is in the same status as a slave who has agreed to buy his own freedom, but the other scholars say that he is free by extension of the portion already freed. The third view is expressed by Zufar and some scholars from Basrah: the other portion is valued for the freeing partner, and he pays it when he has enough funds. The fourth view is stated by *Qadi* ʿIyāḍ quoting some scholars: if the freeing partner is poor, his action of freeing his share in the slave is invalid and the slave remains totally a slave. This view is invalid.

If a person is the sole owner of a slave and he sets a portion of the slave free, the slave is completely and immediately freed, without having to work for redeeming any part of such. This is the view of al-Shāfiʿī, Mālik, Ahmad and all scholars. Only Abu Ḥanīfah said that he should work to redeem the rest of him and pays the price to his freeing partner. Abu Ḥanīfah's disciples disagree with him, taking the same view as the majority of scholars. *Qadi* ʿIyāḍ says that it is reported that Ṭāwūs, Rabīʿah, Ḥammād and one report from al-Ḥasan share Abu Ḥanīfah's view. The Ẓāhirī scholars, al-Shaʿbī and ʿUbaydullāh ibn al-Ḥasan al-ʿAnbarī said that a person may set free any portion of his slave, but God knows best.

The first hadith in this book narrated by Ibn ʿUmar, hadith No. 3311 concludes with 'Otherwise, he has freed the share he had'. *Qadi* ʿIyāḍ said: 'This statement appears to be a part of what the Prophet said. This is how it is reported by Mālik and ʿUbaydullāh al-ʿUmarī, connecting it with the Prophet's statement as its concluding portion. Ayyūb, however, attributes this statement to Nāfiʿ, saying: 'Nāfiʿ said: "otherwise, he has freed the share he had".' He thus makes this remark separate from the hadith, stated

by Nāfiʿ. On one occasion, Ayyūb said: ‘I am not sure whether it is part of the hadith or a useful remark by Nāfiʿ’. Because of this report, Ibn Waḍḍāḥ said: ‘This is not the Prophet’s word’. *Qadi* ʿIyāḍ said: ‘What Mālik and ʿUbaydullāh al-ʿUmarī said is more preferable; it is certainly better as both are considered by Hadith scholars to be more accurate than Ayyūb in reporting from Nāfiʿ. Besides, Ayyūb himself is doubtful about it. Further, Yaḥyā ibn Saʿīd reports it from Nāfiʿ and he says at this point: ‘Otherwise, what he did is permissible’, thus expressing the same by meaning, not wording. All this is contrary to the view that the slave has to work for his unfreed portion.

The hadiths mention that the valuation should be ‘in equity’. This means that it should be fair valuation, without addition or deduction, but God knows best.’

i. Related by al-Bukhari, 2491, 2504, 2526 and 2527; Abu Dāwūd, 3937, 3938 and 3939; al-Tirmidhī, 1348; Ibn Mājah, 2527.

CHAPTER 2

ALLEGIANCE OF THE FREED SLAVE

[3316–5]. (Dar al-Salam 3584) Yaḥyā ibn Yaḥyā narrated:[i] he said: I read out to Mālik; from Nāfiʿ; from Ibn ʿUmar; from ʿĀ'ishah; that **'She wanted to buy a slave woman and set her free. Her people said: "We will sell her to you on condition that her allegiance remains to us".[ii] She mentioned this to God's Messenger (peace be upon him) and he said: "This should not stop you. [A freed slave's] allegiance belongs to the one who sets the slave free".'**

وَحَدَّثَنَا يَحْيَى بْنُ يَحْيَى، قَالَ قَرَأْتُ عَلَى مَالِكٍ، عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ، عَنْ عَائِشَةَ، أَنَّهَا أَرَادَتْ أَنْ تَشْتَرِيَ جَارِيَةً تُعْتِقُهَا. فَقَالَ أَهْلُهَا: نَبِيعُكِهَا عَلَى أَنَّ وَلاَءَهَا لَنَا . فَذَكَرَتْ ذَلِكَ لِرَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، فَقَالَ: «لا يَمْنَعُكِ ذَلِكَ، فَإِنَّمَا الْوَلاَءُ لِـمَنْ أَعْتَقَ».

[3317–6]. (Dar al-Salam 3585) Qutaybah ibn Saʿīd narrated:[iii] Layth narrated; from Ibn Shihāb; from ʿUrwah; that **'ʿĀ'ishah told him that Barīrah came to request ʿĀ'ishah's help in paying for her freedom. She had not paid any portion of the price she agreed [with her people]. ʿĀ'ishah said to her: "Go back to your people. If they wish that I pay the agreed sum on your behalf and your allegiance remains to me, I will do that".**

Barīrah mentioned this to her people, but they refused. They said: “If she will do that to you for God’s reward, this will be fine, but your allegiance remains to us”. She mentioned this to God’s Messenger who said to her: “Buy her and set her free. Allegiance belongs to the one who frees”. The Prophet then addressed the people. He said: “How come some people set conditions that are not in God’s Book? Whoever makes a condition that is not approved of in God’s Book, [should know that] it is invalid, even though he stipulates it a hundred times. God’s condition has stronger claim and is more binding”.’

وَحَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ، حَدَّثَنَا لَيْثٌ، عَنِ ابْنِ شِهَابٍ، عَنْ عُرْوَةَ، أَنَّ عَائِشَةَ أَخْبَرَتْهُ، أَنَّ بَرِيرَةَ جَاءَتْ عَائِشَةَ تَسْتَعِينُهَا فِي كِتَابَتِهَا. وَلَمْ تَكُنْ قَضَتْ مِنْ كِتَابَتِهَا شَيْئًا. فَقَالَتْ لَهَا عَائِشَةُ: ارْجِعِي إِلَى أَهْلِكِ، فَإِنْ أَحَبُّوا أَنْ أَقْضِيَ عَنْكِ كِتَابَتَكِ، وَيَكُونَ وَلاَؤُكِ لِي، فَعَلْتُ. فَذَكَرَتْ ذَلِكَ بَرِيرَةُ لأَهْلِهَا، فَأَبَوْا. وَقَالُوا إِنْ شَاءَتْ أَنْ تَحْتَسِبَ عَلَيْكِ فَلْتَفْعَلْ، وَيَكُونَ لَنَا وَلاَؤُكِ . فَذَكَرَتْ ذَلِكَ لِرَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، فَقَالَ لَهَا رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «ابْتَاعِي، فَأَعْتِقِي. فَإِنَّمَا الْوَلاَءُ لِـمَنْ أَعْتَقَ». ثُمَّ قَامَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَقَالَ: «مَا بَالُ أُنَاسٍ يَشْتَرِطُونَ شُرُوطًا لَيْسَتْ فِي كِتَابِ اللهِ؟ مَنِ اشْتَرَطَ شَرْطًا لَيْسَ فِي كِتَابِ اللهِ فَلَيْسَ لَهُ، وَإِنْ شَرَطَ مِائَةَ مَرَّةٍ. شَرْطُ اللهِ أَحَقُّ وَأَوْثَقُ».

[3318–7]. (Dar al-Salam 3586) Abu al-Ṭāhir narrated to me:[iv] Ibn Wahb reported; Yūnus reported to me; from Ibn Shihāb; from ʿUrwah ibn al-Zubayr; from ʿĀ’ishah, the Prophet’s wife, that she

said: **‘Barīrah came to me and said: “ʿĀ’ishah, I have made an agreement with my people to pay nine *ouqiyyahs*, one each year…”’ giving the same meaning as the hadith narrated by al-Layth. It adds that he [meaning the Prophet] said: ‘This does not prevent you having her [allegiance]. Buy her, then set her free’. He added in the hadith that God’s Messenger addressed the people, praising and glorifying God, then said: ‘Meanwhile…’.**

حَدَّثَنِي أَبُو الطَّاهِرِ، أَخْبَرَنَا ابْنُ وَهْبٍ، أَخْبَرَنِي يُونُسُ، عَنِ ابْنِ شِهَابٍ، عَنْ عُرْوَةَ بْنِ الزُّبَيْرِ، عَنْ عَائِشَةَ، زَوْجِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ أَنَّهَا قَالَتْ جَاءَتْ بَرِيرَةُ إِلَيَّ فَقَالَتْ: يَا عَائِشَةُ إِنِّي كَاتَبْتُ أَهْلِي عَلَى تِسْعِ أَوَاقٍ فِي كُلِّ عَامٍ أُوقِيَّةٌ. بِمَعْنَى حَدِيثِ اللَّيْثِ. وَزَادَ فَقَالَ: «لا يَمْنَعُكِ ذَلِكِ مِنْهَا. ابْتَاعِي وَأَعْتِقِي». وَقَالَ فِي الْحَدِيثِ ثُمَّ قَامَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فِي النَّاسِ، فَحَمِدَ اللهَ وَأَثْنَى عَلَيْهِ، ثُمَّ قَالَ: «أَمَّا بَعْدُ...».

[3319–8]. (Dar al-Salam 3587) Abu Kurayb Muhammad ibn al-ʿAlā’ al-Hamdānī narrated:[v] Abu Usāmah narrated; Hishām ibn ʿUrwah narrated; my father reported to me; from ʿĀ’ishah. She said: **‘Barīrah entered my place and said: “My people have made agreement with me for nine *ouqiyyahs*, one each year. Help me raise it”. I said to her: “If your people agree that I count it to them all at once and free you, provided that your allegiance will be to me, I will do that”. She mentioned this to her people, but they insisted that her allegiance must remain to them. She came back and told me this, but I reproached her.**

She said: “By God, such it was”.’ ʿĀ’ishah added: ‘God’s Messenger (peace be upon him) overheard and he asked me. I told him and he said: “Buy her and set her free. Give them the condition of allegiance because a [freed] slave’s allegiance belongs to the one who sets the slave free”. I did that. God’s Messenger addressed the people that evening, praising God and glorifying Him as He should be glorified, then said: “Meanwhile, how come some people set conditions that are not in God’s Book? Whatever condition that is not approved of in God’s Book is invalid, even though it is stipulated a hundred times. God’s Book is right, and God’s condition is more binding. How come some people among you, any one of them says [to another]: ‘Free so-and-so but his allegiance remains mine. A freed slave’s allegiance belongs to the one who sets him free’.”’

وَحَدَّثَنَا أَبُو كُرَيْبٍ مُحَمَّدُ بْنُ الْعَلاَءِ الْهَمْدَانِيُّ، حَدَّثَنَا أَبُو أُسَامَةَ، حَدَّثَنَا هِشَامُ بْنُ عُرْوَةَ، أَخْبَرَنِي أَبِي، عَنْ عَائِشَةَ قَالَتْ: دَخَلَتْ عَلَىَّ بَرِيرَةُ فَقَالَتْ: إِنَّ أَهْلِي كَاتَبُونِي عَلَى تِسْعِ أَوَاقٍ فِي تِسْعِ سِنِينَ: فِي كُلِّ سَنَةٍ أُوقِيَّةٌ . فَأَعِينِينِي . فَقُلْتُ لَهَا: إِنْ شَاءَ أَهْلُكِ أَنْ أَعُدَّهَا لَهُمْ عَدَّةً وَاحِدَةً، وَأُعْتِقَكِ وَيَكُونَ الْوَلاَءُ لِي، فَعَلْتُ . فَذَكَرَتْ ذَلِكَ لأَهْلِهَا، فَأَبَوْا إِلاَّ أَنْ يَكُونَ الْوَلاَءُ لَهُمْ. فَأَتَتْنِي، فَذَكَرَتْ ذَلِكَ. قَالَتْ: فَانْتَهَرْتُهَا. فَقَالَتْ لاَهَا اللهِ إِذَا قَالَتْ . فَسَمِعَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، فَسَأَلَنِي فَأَخْبَرْتُهُ فَقَالَ: «اشْتَرِيهَا وَأَعْتِقِيهَا، وَاشْتَرِطِي لَهُمُ الْوَلاَءَ. فَإِنَّ الْوَلاَءَ لِـمَنْ أَعْتَقَ». فَفَعَلْتُ. قَالَتْ: ثُمَّ خَطَبَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ عَشِيَّةً، فَحَمِدَ اللهَ وَأَثْنَى عَلَيْهِ بِمَا هُوَ أَهْلُهُ، ثُمَّ قَالَ: أَمَّا بَعْدُ، فَمَا

بَالُ أَقْوَامٍ يَشْتَرِطُونَ شُرُوطًا لَيْسَتْ فِي كِتَابِ اللهِ؟ مَا كَانَ مِنْ شَرْطٍ لَيْسَ فِي كِتَابِ اللهِ عَزَّ وَجَلَّ فَهُوَ بَاطِلٌ، وَإِنْ كَانَ مِائَةَ شَرْطٍ. كِتَابُ اللهِ أَحَقُّ، وَشَرْطُ اللهِ أَوْثَقُ. مَا بَالُ رِجَالٍ مِنْكُمْ يَقُولُ أَحَدُهُمْ: أَعْتِقْ فُلاَنًا وَالْوَلاَءُ لِي. إِنَّمَا الْوَلاَءُ لِـمَنْ أَعْتَقَ.

[3320–9]. (Dar al-Salam 3588) Abu Bakr ibn Abi Shaybah and Abu Kurayb narrated:[vi] both said: Ibn Numayr narrated [H]. Also, Abu Kurayb narrated; Wakīʿ narrated [H]. And Zuhayr ibn Ḥarb and Isḥāq ibn Ibrāhīm narrated; both from Jarīr; all of them from Hishām ibn ʿUrwah; with the same chain of transmission**: a similar text to Abu Usāmah's narration. However, Jarīr adds in his narration: 'Her husband was a slave. God's Messenger gave her a choice and she chose to be free. Had her husband been a free man, the Prophet would not have given her such a choice'. Their narration does not include: 'Meanwhile'.**

وَحَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، وَأَبُو كُرَيْبٍ قَالا: حَدَّثَنَا ابْنُ نُمَيْرٍ، ح. وَحَدَّثَنَا أَبُو كُرَيْبٍ، حَدَّثَنَا وَكِيعٌ، ح. وَحَدَّثَنَا زُهَيْرُ بْنُ حَرْبٍ، وَإِسْحَاقُ بْنُ إِبْرَاهِيمَ، جَمِيعًا عَنْ جَرِيرٍ، كُلُّهُمْ عَنْ هِشَامِ بْنِ عُرْوَةَ، بِهَذَا الإِسْنَادِ: نَحْوَ حَدِيثِ أَبِي أُسَامَةَ، غَيْرَ أَنَّ فِي حَدِيثِ جَرِيرٍ قَالَ: وَكَانَ زَوْجُهَا عَبْدًا، فَخَيَّرَهَا رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، فَاخْتَارَتْ نَفْسَهَا. وَلَوْ كَانَ حُرًّا لَمْ يُخَيِّرْهَا. وَلَيْسَ فِي حَدِيثِهِمْ «أَمَّا بَعْدُ».

[3321–10]. (Dar al-Salam 3589) Zuhayr ibn Ḥarb and Muhammad ibn al-ʿAlā' narrated (Zuhayr's text): both said: Abu Muʿāwiyah narrated; Hishām ibn ʿUrwah narrated; from ʿAbd al-Raḥmān ibn

al-Qāsim; from his father; from ʿĀ’ishah. She said: **‘Three issues concerned Barīrah: her people wanted to sell her and stipulate that her allegiance remained to them. I mentioned this to the Prophet, and he said: “Buy her and set her free. Allegiance belongs to the one who sets the slave free”, and she was set free. God’s Messenger offered her a choice and she chose to be free. People used to give her their charity and she would send us presents. I mentioned this to the Prophet, and he said: “It is a charity given to her, but to you it is a gift. You may eat it”.’**

حَدَّثَنَا زُهَيْرُ بْنُ حَرْبٍ، وَمُحَمَّدُ بْنُ الْعَلاَءِ، (وَاللَّفْظُ لِزُهَيْرٍ) قَالا: حَدَّثَنَا أَبُو مُعَاوِيَةَ، حَدَّثَنَا هِشَامُ بْنُ عُرْوَةَ، عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْقَاسِمِ، عَنْ أَبِيهِ، عَنْ عَائِشَةَ قَالَتْ: كَانَ فِي بَرِيرَةَ ثَلاَثُ قَضِيَّاتٍ. أَرَادَ أَهْلُهَا أَنْ يَبِيعُوهَا وَيَشْتَرِطُوا وَلاَءَهَا، فَذَكَرْتُ ذَلِكَ لِلنَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَقَالَ: اشْتَرِيهَا وَأَعْتِقِيهَا، فَإِنَّ الْوَلاَءَ لِـمَنْ أَعْتَقَ». قَالَتْ: وَعَتَقَتْ فَخَيَّرَهَا رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، فَاخْتَارَتْ نَفْسَهَا . قَالَتْ: وَكَانَ النَّاسُ يَتَصَدَّقُونَ عَلَيْهَا، وَتُهْدِي لَنَا . فَذَكَرْتُ ذَلِكَ لِلنَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَقَالَ: «هُوَ عَلَيْهَا صَدَقَةٌ، وَهُوَ لَكُمْ هَدِيَّةٌ فَكُلُوهُ».

[3322–11]. (Dar al-Salam 3590) Abu Bakr ibn Abi Shaybah narrated: Ḥusayn ibn ʿAlī narrated; from Zā’idah; from Simāk; from ʿAbd al-Raḥmān ibn al-Qāsim; from his father; from ʿĀ’ishah; that **‘She bought Barīrah from some Anṣārī people who stipulated that her loyalty remained to them. God’s Messenger (peace be upon him) said: “Loyalty belongs to the one who did the favour”. God’s Messenger (peace be upon him)**

gave her a choice, as her husband was a slave. She sent ʿĀ’ishah some meat as a gift. The Prophet said: “Will you cook this meat for us?” ʿĀ’ishah said: “It was a charity given to Barīrah”. The Prophet said: “It is a charity to her, but to us it is a gift”.’

وَحَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا حُسَيْنُ بْنُ عَلِيٍّ، عَنْ زَائِدَةَ، عَنْ سِمَاكٍ، عَنْ عَبْدِ الرَّحْمَنِ بْنِ الْقَاسِمِ، عَنْ أَبِيهِ، عَنْ عَائِشَةَ، أَنَّهَا اشْتَرَتْ بَرِيرَةَ مِنْ أُنَاسٍ مِنَ الأَنْصَارِ، وَاشْتَرَطُوا الْوَلاَءَ. فَقَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «الْوَلاَءُ لِـمَنْ وَلِيَ النِّعْمَةَ». وَخَيَّرَهَا رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، وَكَانَ زَوْجُهَا عَبْدًا. وَأَهْدَتْ لِعَائِشَةَ لَحْمًا، فَقَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «لَوْ صَنَعْتُمْ لَنَا مِنْ هَذَا اللَّحْمِ». قَالَتْ عَائِشَةُ: تُصُدِّقَ بِهِ عَلَى بَرِيرَةَ . فَقَالَ: «هُوَ لَهَا صَدَقَةٌ وَلَنَا هَدِيَّةٌ ».

[3323–12]. (Dar al-Salam 3591-3592) Muhammad ibn al-Muthannā narrated: Muhammad ibn Jaʿfar narrated; Shuʿbah narrated; he said: I heard ʿAbd al-Raḥmān ibn al-Qāsim say: I heard al-Qāsim narrating from ʿĀ’ishah that **‘She wanted to buy Barīrah in order to set her free, but her people stipulated that her allegiance remained to them. She mentioned this to God’s Messenger (peace be upon him) and he said: “Buy her and set her free. Allegiance belongs to the one who sets a slave free”. Some meat was given to God’s Messenger as a gift. [People] said to the Prophet: “This is a charity given to Barīrah”. He**

said: “It was a charity to her, but to us it is a gift”. She was given a choice.

ʿAbd al-Raḥmān said: **‘Her husband was a free man’.**[vii]

Shuʿbah said: **‘I then asked him about her husband, but he said that he did not know’.**

حَدَّثَنَا مُحَمَّدُ بْنُ الْـمُثَنَّى، حَدَّثَنَا مُحَمَّدُ بْنُ جَعْفَرٍ، حَدَّثَنَا شُعْبَةُ قَالَ: سَمِعْتُ عَبْدَ الرَّحْمَنِ بْنَ الْقَاسِمِ قَالَ: سَمِعْتُ الْقَاسِمَ يُحَدِّثُ عَنْ عَائِشَةَ، أَنَّهَا أَرَادَتْ أَنْ تَشْتَرِيَ بَرِيرَةَ لِلْعِتْقِ، فَاشْتَرَطُوا وَلاَءَهَا. فَذَكَرَتْ ذَلِكَ لِرَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَقَالَ: «اشْتَرِيهَا وَأَعْتِقِيهَا، فَإِنَّ الْوَلاَءَ لِـمَنْ أَعْتَقَ». وَأُهْدِيَ لِرَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ لَحْمٌ، فَقَالُوا لِلنَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: هَذَا تُصُدِّقَ بِهِ عَلَى بَرِيرَةَ . فَقَالَ: «هُوَ لَهَا صَدَقَةٌ، وَهُوَ لَنَا هَدِيَّةٌ». وَخُيِّرَتْ .

فَقَالَ عَبْدُ الرَّحْمَنِ: وَكَانَ زَوْجُهَا حُرًّا.

قَالَ شُعْبَةُ: ثُمَّ سَأَلْتُهُ عَنْ زَوْجِهَا، فَقَالَ: لا أَدْرِي.

Ahmad ibn ʿUthmān al-Nawfalī narrated: Abu Dāwūd narrated; Shuʿbah narrated; with the same chain of transmission: **the same text.**

وَحَدَّثَنَاهُ أَحْمَدُ بْنُ عُثْمَانَ النَّوْفَلِيُّ، حَدَّثَنَا أَبُو دَاوُدَ، حَدَّثَنَا شُعْبَةُ، بِهَذَا الإِسْنَادِ: نَحْوَهُ.

[3324–13]. (Dar al-Salam 3593) Muhammad ibn al-Muthannā and Ibn Bashshār narrated:[viii] both from Abu Hishām. Ibn al-Muthannā

said: Mughīrah ibn Salamah al-Makhzūmī and Abu Hishām narrated; Wuhayb narrated; ʿUbaydullāh narrated; from Yazīd ibn Rūmān; from ʿUrwah; from ʿĀ’ishah. She said: **‘Barīrah’s husband was a slave’.**

وَحَدَّثَنَا مُحَمَّدُ بْنُ الْـمُثَنَّى، وَابْنُ بَشَّارٍ، جَمِيعًا عَنْ أَبِي هِشَام. قَالَ ابْنُ الْـمُثَنَّى: حَدَّثَنَا مُغِيرَةُ بْنُ سَلَمَةَ الْـمَخْزُومِيُّ، وَأَبُو هِشَامٍ، حَدَّثَنَا وُهَيْبٌ، حَدَّثَنَا عُبَيْدُ اللهِ، عَنْ يَزِيدَ بْنِ رُومَانَ، عَنْ عُرْوَةَ، عَنْ عَائِشَةَ، قَالَتْ: كَانَ زَوْجُ بَرِيرَةَ عَبْدًا.

[3325–14]. (Dar al-Salam 3594) Abu al-Ṭāhir narrated to me: Ibn Wahb narrated; Mālik ibn Anas reported from Rabīʿah ibn Abi ʿAbd al-Raḥmān; from al-Qāsim ibn Muhammad; from ʿĀ’ishah the Prophet’s wife, that she said: **‘Three sunnah practices were settled in Barīrah’s case: when she was set free she was given a choice with regard to her husband, and I was given a gift of meat. God’s Messenger came in with the saucepan on the cooker. He asked for some food, and he was served some bread with some food available at home. He said: “Did I not see a saucepan with meat being cooked?” They said: “Yes, Messenger of God. This is meat given to Barīrah as a charity, and we disliked serving it to you”. He said: “It is a charity given to her, but to us, it is a gift from her”. The Prophet also said about her: “Allegiance belongs to the one who sets the slave free”.’**

وَحَدَّثَنِي أَبُو الطَّاهِرِ، حَدَّثَنَا ابْنُ وَهْبٍ، أَخْبَرَنِي مَالِكُ بْنُ أَنَسٍ، عَنْ رَبِيعَةَ بْنِ أَبِي عَبْدِ الرَّحْمَنِ، عَنِ الْقَاسِمِ بْنِ مُحَمَّدٍ، عَنْ عَائِشَةَ، زَوْجِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ أَنَّهَا قَالَتْ: كَانَ فِي بَرِيرَةَ ثَلاَثُ سُنَنٍ: خُيِّرَتْ عَلَى زَوْجِهَا حِينَ عَتَقَتْ، وَأُهْدِيَ لَهَا لَحْمٌ فَدَخَلَ عَلَيَّ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ وَالْبُرْمَةُ عَلَى النَّارِ، فَدَعَا بِطَعَامٍ، فَأُتِيَ بِخُبْزٍ وَأُدُمٍ مِنْ أُدُمِ الْبَيْتِ فَقَالَ: «أَلَمْ أَرَ بُرْمَةً عَلَى النَّارِ فِيهَا لَحْمٌ»؟ فَقَالُوا: بَلَى يَا رَسُولَ اللهِ. ذَلِكَ لَحْمٌ تُصُدِّقَ بِهِ عَلَى بَرِيرَةَ، فَكَرِهْنَا أَنْ نُطْعِمَكَ مِنْهُ. فَقَالَ: «هُوَ عَلَيْهَا صَدَقَةٌ، وَهُوَ مِنْهَا لَنَا هَدِيَّةٌ». وَقَالَ النَّبِيُّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فِيهَا: «إِنَّمَا الْوَلاَءُ لِـمَنْ أَعْتَقَ».

[3326 – 15]. (Dar al-Salam 3595) Abu Bakr ibn Abi Shaybah narrated: Khālid ibn Makhlad narrated; from Sulaymān ibn Bilāl; Suhayl ibn Abi Ṣāliḥ narrated to me; from his father; from Abu Hurayrah; he said: **‘ʿĀ’ishah wanted to buy a slave woman to set her free, but her people stipulated that her allegiance must remain to them. She mentioned this to God’s Messenger and he said: “It should not stop you. Allegiance belongs to the one who sets the slave free”.’**

وَحَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا خَالِدُ بْنُ مَخْلَدٍ، عَنْ سُلَيْمَانَ بْنِ بِلاَلٍ، حَدَّثَنِي سُهَيْلُ بْنُ أَبِي صَالِحٍ، عَنْ أَبِيهِ، عَنْ أَبِي هُرَيْرَةَ قَالَ: أَرَادَتْ عَائِشَةُ أَنْ تَشْتَرِيَ جَارِيَةً تُعْتِقُهَا، فَأَبَى أَهْلُهَا إِلاَّ أَنْ يَكُونَ لَهُمُ الْوَلاَءُ. فَذَكَرَتْ ذَلِكَ لِرَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ فَقَالَ: «لا يَمْنَعُكِ ذَلِكِ، فَإِنَّمَا الْوَلاَءُ لِـمَنْ أَعْتَقَ».

Text Explanation

This chapter provides the hadiths concerning Barīrah. It is a very important case that gives us several rulings and rules. There are certain points in these hadiths on which different and divergent views have been expressed.

1. The first of these is that Barīrah had made an agreement with her people, i.e., her owners, as she was a slave, to buy her freedom. Her people sold her, and she was bought by ʿĀ'ishah, with the Prophet's approval. Therefore, a number of scholars maintain that it is permissible to sell a slave who is under an agreement to buy his or her freedom. Scholars who say that such a sale is permissible include ʿAṭā', al-Nakhaʿī, Ahmad and Mālik in one reported view of his. Ibn Masʿūd, Rabīʿah, Abu Ḥanīfah, al-Shāfiʿī, some Mālikī scholars and Mālik in another reported view of his say that it is not permissible to sell such a slave. Some scholars said that it is permissible to sell such a slave so that he could be freed, but not for service. Scholars who say that it is not permissible to sell a slave who is under agreement to buy his freedom say that the hadith concerning Barīrah shows that she was unable to meet her commitment under the agreement. Therefore, her people terminated the agreement, but God knows best.
2. The second issue is that in hadith No. 3319, the Prophet said to ʿĀ'ishah: 'Buy her and set her free. Give them the condition of allegiance because a slave's allegiance belongs to the one who sets the slave free'. This is problematic because, according to the hadith, ʿĀ'ishah bought Barīrah and agreed the condition that her allegiance remained to her former owners. This condition makes the sale invalid. Moreover, ʿĀ'ishah would be deceiving the sellers giving them a condition which could not be fulfilled and under which they could make no claim. How could the Prophet agree to ʿĀ'ishah doing that? Because of this problem, some scholars, such as Yaḥyā ibn Aktham,

reject this hadith in total. He cites in evidence that this sentence does not occur in many narrated versions of the hadith.

The great majority of scholars maintain that the sentence is correct, but they differ in their interpretation of it. Some scholars said that it means: ‘Set a condition of allegiance against them’. These scholars cite in evidence a couple of Qur’anic verses where the same preposition, ‘for’, is used in the sense of ‘against’. This view is reported from al-Shāfiʿī and al-Muzanī, and it is expressed by others. However, it is not solid because the Prophet censured Barīrah’s people’s condition. Had he meant in the sense suggested by these scholars, he would not have censured it. Yet, this argument may be countered by saying that the Prophet censured what they initially wanted to stipulate.

A different view suggests that the Prophet’s words, ‘give them the condition of allegiance’, mean tell them the ruling concerning a freed slave’s allegiance. It is also suggested that the Prophet’s intention was to rebuke them because he had already explained the rule concerning allegiance and that the condition they wanted to stipulate was unlawful. When they insisted on it, in contravention of his order, he said this to ʿĀ’ishah, advising her that whether she agreed to the condition or not, it remained invalid and had no effect because the matter was already explained to them. In this sense, the Prophet’s words, ‘give them the condition’, do not signify permissibility.

The more correct interpretation of the hadith is what scholars of our Shāfiʿī School say in books of Fiqh, stating that this condition applies only to this case of ʿĀ’ishah, and that the acceptance of this condition and its subsequent invalidity was intentionally allowed in this particular case, which applies to a particular person and has no general or wider application. These scholars say that the purpose of permitting it and then invalidating it was so that it would be more effective in stopping such practice and prohibiting it in any future

case. An analogous situation is that of the Prophet's pilgrimage with his Companions. He first permitted them to start their consecration intending the hajj, i.e., the pilgrimage. He then ordered them to stop that and change their intention so that they would perform the ʿumrah first. He did so as this was more effective to stop their older practice that prevented the performance of the ʿumrah in the hajj season. A minor adverse situation may be tolerated in order to establish or serve a greater interest, but God knows best.

3. A third issue is the establishment of the free slave's allegiance to the one who sets him free. Muslims are unanimous that the allegiance of a freed slave, man or woman, belongs to the one who sets him or her free. Such allegiance establishes a right of inheritance giving the slave's former master a right of inheriting his former slave when he dies. The freed slave does not inherit from his former master, according to the great majority of scholars. Yet some *tābiʿīn* scholars say that he does, meaning that the inheritance between former master and slave works in both ways.

These hadiths provide evidence that no right of allegiance is due from a convert to Islam to the person who convinces him to convert; nor to the one who picks up an abandoned child and brings him up; nor to the one who enters with another into a pledge of mutual support. All this is agreed upon by Mālik, al-Awzāʿī, al-Thawrī, al-Shāfiʿī, Ahmad, Dāwūd and the great majority of scholars. They add, if any such person has no heir, his estate goes to the state treasury. Rabīʿah, al-Layth, Abu Ḥanīfah and his disciples said that a person who adopts Islam through the efforts of someone else owes allegiance to that person. Isḥāq ibn Rāhawayh said that the one who picks up an abandoned child and brings him up earns the allegiance of that child. Abu Ḥanīfah also said that allegiance is established through a pledge of mutual support, and that the two parties to the pledge inherit from each other. The evidence in support of the view of the majority of

scholars is the statement in the hadiths: ‘Allegiance belongs to the one who sets the slave free’. This is also evidence that if a person frees his slave on condition that the slave owes no allegiance to his former master, this condition is considered invalid, and the allegiance remains in force. This is the view of al-Shāfiʿī and others. They also say that if the slave owner sets him free on condition of the slave paying him an agreed sum of money, allegiance belongs to the freeing master. The same applies in the case of an agreement by which the slave buys his freedom, and also if the slave is a woman who gives birth to her master’s child and becomes free when the master dies. In all these cases, the former slave’s allegiance belongs to the master who set him or her free. Allegiance also belongs to the Muslim from an unbeliever slave and the opposite is also true, even though they do not inherit from each other in this last case.

4. The fourth issue relates to the fact that the Prophet gave Barīrah the choice to terminate her marriage. Muslims are unanimous that if a slave woman becomes completely free and she is married to a slave, she has the free choice of terminating her marriage. If her husband is a free man, then she has no such choice according to Mālik, al-Shāfiʿī and the majority of scholars. Abu Ḥanīfah said that she has the same choice based on the report that suggests that her husband was a free man. Muslim mentions this report, in hadith No. 3323 as narrated by Shuʿbah from ʿAbd al-Raḥmān ibn al-Qāsim. However, Shuʿbah said: ‘I then asked him about her husband, and he said that he did not know’. The majority of scholars argue that it is just the same case. The best-known versions in Saḥīḥ Muslim and other hadith anthologies is that her husband was a slave. Eminent hadith scholars say that the report suggesting that Barīrah’s husband was a free man is wrong, odd and rejected, because it is contrary to what is well established in the narrations by more reliable people. This is further confirmed by what ʿĀ’ishah says in hadith No. 3320: ‘Her husband

was a slave. God's Messenger gave her a choice and she chose to be free. Had her husband been a free man, the Prophet would not have given her such a choice'.

Her statement provides two pieces of evidence. The first is that she says that Barīrah's husband was a slave. She should know as she was the main person involved in the case. The second evidence is her saying: 'Had her husband been a free man, the Prophet would not have given her such a choice'. Such a statement is hardly ever stated by anyone without relying on a clear ruling. Besides, a marriage is binding, and it can only be terminated by a clear religious ruling. The option to terminate is confirmed in the case of the freed woman being married to a slave. Therefore, the case of her being married to a free man remains as it is. Besides, neither harm nor shame applies to her, as a free woman, in being married to a free man, while such harm occurs if her husband is a slave. Therefore, Islamic law gives her the option to terminate the marriage in order to remove such harm. Scholars add that this hadith, in its various versions, is narrated by ʿĀ'ishah and Ibn ʿAbbās. In the case of Ibn ʿAbbās, all narrations from him say that Barīrah's husband was a slave, and most narrations from ʿĀ'ishah also confirm the same. Hence, this must be considered far more likely, but God knows best.

5. The Prophet makes it clear that any condition that does not have a basis in God's Book, the Qur'an, is invalid. In hadith No. 3319, the Prophet says: 'Whatever condition that is not approved of in God's Book is invalid, even though it is stipulated a hundred times'. A more literal translation would say: 'even though it has a hundred conditions'. Al-Nawawī says: 'This means that if the condition is stated a hundred times for re-emphasis, it remains invalid'. This is how the Prophet states it in the earlier hadith, No. 3317: 'Whoever makes a condition that is not approved in God's Book, [should know that] it is invalid, even though he stipulates it a hundred times'.

Scholars say that conditions in sales and similar matters are of different types:

i. A condition required by the contract, such as a condition requiring delivery to the buyer, or that the fruits remain on the trees until the time of collection, or that faulty items are returnable.

ii. A condition that serves an interest, or being a necessity, such as conditions of mortgage, guarantor, option, deferment of payment, etc.

These two types are permissible, and they do not affect the validity of the contract. There is no disagreement on this point.

iii. A condition of freeing the sold slave, man or woman. This is also permissible according to the majority of scholars, on the basis of this hadith narrated by ʿĀ'ishah and to encourage freeing slaves.

iv. Other conditions such as one that makes an exception of one aspect of benefit, or whereby the vendor sells the buyer another thing, or that he lets him an apartment or a house, or similar conditions. All such conditions are invalid, and the contract is deemed null and void, according to the majority of scholars. Ahmad says that the contract is not invalidated by one such condition only. There must be two invalid conditions. But, God knows best.

6. The Prophet says about the meat given to Barīrah as *ṣadaqah*, or charity: 'It is a charity given to her, but to us, it is a gift from her'. This is clear evidence that when the description changes, the ruling also changes. Thus, a rich person can buy it from a poor one and may eat it if the owner gives it as a gift. It is also permissible for a Hashimite and others to whom zakat is not payable in the first place, but God knows best.

Further, this hadith concerning Barīrah and her case, in its different versions, highlights many interesting points and various rules. Ibn Khuzaymah and Ibn Jarīr wrote about it extensively. Here is a list of the rules based on it:

1. Allegiance, in the sense of ‘right of inheritance’, belongs to the person who sets the slave free. No allegiance belongs to anyone else. Allegiance is due to a Muslim by a non-Muslim, and the reverse is true.
2. An agreement between master and slave whereby the slave buys his freedom is perfectly permissible. It is also permissible to terminate an agreement with a slave to buy his freedom if he is unable to fulfil the conditions. This is taken by some scholars as indicating the permissibility of selling a slave who is bound by such an agreement. It is permissible to make such an agreement with a slave woman, as it is permissible with a male slave. It is permissible to make such an agreement with a married slave woman. A slave who enters into an agreement to buy his freedom does not become free by such an agreement. He remains a slave as long as he owes any amount, however small, as it is clearly stated in a well-known hadith related by Abu Dāwūd and others. This is the view of al-Shāfiʿī, Mālik and the great majority of scholars. *Qadi* ʿIyāḍ reports that some early scholars were of the view that the slave becomes free once he has made the agreement, but the sum agreed remains a debt he owes. He does not revert to slavery in any case. Some scholars consider that he becomes free when he has paid half the agreed sum, and the remainder becomes a loan he owes. It is reported that ʿUmar, Ibn Masʿūd and Sharīḥ expressed the same view but required payment of one-third of the agreed sum. ʿAṭā’ has the same view, but stipulating the payment of three-quarters of the agreed amount. The agreement for self-buying should require payment of the agreed sum in instalments. In some of the hadiths in this chapter, Barīrah says that

her people agreed with her the sum of nine *ouqiyyahs*,[ix] to be paid over nine years, one each year. According to al-Shāfiʿī school, it may not be paid in one sum; it must be a minimum of two instalments. Mālik and the majority of scholars say that it is valid in instalments and also in one payment. If a married slave woman regains her freedom, she has the choice to retain or terminate her marriage.

3. Conditions based on the principles of Islamic law are valid. Otherwise, they are invalid.
4. Charity, or *ṣadaqah*, is permissible for those allied to the Quraysh tribe. It is permissible to accept a gift given by a poor person or a freed slave. Charity is forbidden for God's Messenger to take. ʿĀ'ishah said to him: 'You do not eat charity'. According to our school, it was forbidden for the Prophet to take obligatory zakat, and this is unanimously agreed upon. The same applies to voluntary charity, according to the more correct view. Charity, or *ṣadaqah*, is not forbidden to the people of the Quraysh except for the Hāshim and al-Muṭṭalib clans. ʿĀ'ishah belonged to the Quraysh and she accepted the meat from Barīrah on the understanding that the ruling concerning charity applied to it. As such, it was permissible for her but not for the Prophet. The Prophet did not object to her assumption. It is permissible for a man to enquire about what he sees in his own home. This does not contradict what is mentioned in the hadith narrated by Umm Zarʿ, as she says: 'He may not enquire about what he used to see in his own home'. This means that a man should not ask about something which used to be in his home but is gone. He should not ask where it has gone. In this case the saucepan and the meat were still available in the Prophet's home. Hence, the Prophet asked them about it in order to explain to them its status. He knew well that they did not withhold the meat from him for any reason other than their assumption that it was not lawful for him. He, therefore, wanted to explain the matter to them.

5. It is permissible to use rhyming phrases in one's speech, provided that it comes naturally, unaffected [as this is used in the original Arabic text]. A slave who has entered into an agreement to buy his freedom should be financially helped. A woman of sound mind may use her own money to buy, set a slave free, or for other purposes, as she pleases. If a married slave woman is sold, her sale does not count as divorce, and it does not cause the termination of her marriage. This is the view of the majority of scholars. Saʿīd ibn al-Musayyib, however, considered it a divorce. Ibn ʿAbbās is reported to have said that it terminates her marriage. The hadiths stating Barīrah's case rejects both these views, because Barīrah was given the option to stay with her husband or not. It is permissible for a slave under an agreement to buy himself to beg in order to raise the money needed.
6. When two adverse situations occur, the lesser one is tolerated in order to repel the greater one. This also means that a minor adversity is tolerated to repel a major one. This has been explained in the discussion of the condition stipulated by Barīrah's people to retain her allegiance. It is permissible for a judge to intercede with the party in whose favour a judgement is made on behalf of the other party, and to intercede with a woman to stay with her husband. A freed slave woman may terminate her marriage, even though the termination leaves an adverse effect on her husband who loves her much. Barīrah's husband cried when she refused to stay with him. It is permissible that a freed slave willingly serves the one who freed him. It is recommended when a contravention of the rules or some important matter occurs which needs explanation that the ruler or the person in charge should address the people and explain the proper Islamic ruling on the matter. He should censure any practice that is contrary to Islamic law. When doing what is recommended, the ruler should maintain proper values and give gentle and kind admonition. We note that the Prophet said to the people in his address: 'How

come some people stipulate conditions that have no basis in God's Book?'. He did not speak to the individual who stipulated the condition because his purpose would be achieved and others would be similarly alerted without giving undue publicity to a particular incident.

7. A public address should start by praising God and glorifying Him as He should be glorified. It is recommended that after praising God and glorifying Him in a public address to use the words *ammā baʿd*, if the speech is in Arabic. These words are translated as 'meanwhile'. The Prophet often used these words in his speeches as we explained on more than one occasion.Putting clear emphasis on the removal of what is unacceptable and showing it as totally distasteful. But God knows best.

In hadith No. 3317, the Prophet says that 'God's condition has a stronger claim'. It is suggested that he meant 'Treat them as your brethren in faith and your proteges', (33: 5) and 'Whatever God's Messenger gives you, take it', (59: 7) *Qadi* ʿIyāḍ said: 'To me, the reference is to the Prophet's statement: "Allegiance belongs to the one who sets the slave free".'

In the same hadith, Barīrah's people said to her when she told them of ʿĀ'ishah's offer: 'If she will do that to you for God's reward, this will be fine'. They meant that if ʿĀ'ishah would pay the sum agreed for Barīrah's freedom seeking only God's reward, without having Barīrah's allegiance, it would be fine with them.

Barīrah's husband's name was Mughīth, but God knows best.

i. Related by al-Bukhari, 2169, 2562 and 6757; Abu Dāwūd, 2915; al-Nasā'ī, 4658.

ii. When a master sets a slave free, that slave owes allegiance to the freeing master. This allegiance gives the former master a share of inheritance from the slave should the slave die first.

iii. Related by al-Bukhari, 2561, and in a shorter version 2717; Abu Dāwūd, 3929; al-Tirmidhī, 2124; al-Nasā'ī, 4669 and 4670.

iv. Related by al-Bukhari, 2560.

v. Related by al-Bukhari, 2563.

vi. Related by al-Nasā'ī, 3451; Ibn Mājah, 2521; and in shorter versions: Abu Dāwūd, 2233; al-Tirmidhī, 1154.

vii. This statement is contrary to what the other hadiths state. It is a case of doubt by the narrator. Further explanation is given in the commentary.

viii. Related by al-Nasā'ī, 3452.

ix. An *ouqiyyah* was equivalent to 40 dirhams, and a dirham was the unit of the silver currency at the time. Thus, her agreed price was 360 dirhams.

CHAPTER 3

PROHIBITION OF SELLING AND GIFTING ALLEGIANCE

[3327–16]. (Dar al-Salam 3596) Yaḥyā ibn Yaḥyā al-Tamīmī narrated: Sulaymān ibn Bilāl narrated; from ʿAbdullāh ibn Dīnār; from Ibn ʿUmar; that **‘God’s Messenger (peace be upon him) prohibited selling [a former slave’s] allegiance and giving it as a gift’.**

Muslim said: **‘In this particular hadith, all people rely on ʿAbdullāh ibn Dīnār’.**

حَدَّثَنَا يَحْيَى بْنُ يَحْيَى التَّمِيمِيُّ، أَخْبَرَنَا سُلَيْمَانُ بْنُ بِلاَلٍ، عَنْ عَبْدِ اللهِ بْنِ دِينَارٍ، عَنِ ابْنِ عُمَرَ، أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ نَهَى عَنْ بَيْعِ الْوَلاَءِ، وَعَنْ هِبَتِهِ .

قَالَ مُسْلِمٌ النَّاسُ كُلُّهُمْ عِيَالٌ عَلَى عَبْدِ اللهِ بْنِ دِينَارٍ فِي هَذَا الْحَدِيثِ.

[3328–000]. (Dar al-Salam 3597) Abu Bakr ibn Abi Shaybah and Zuhayr ibn Ḥarb narrated:[i] both said: Ibn ʿUyaynah narrated [H]. Also, Yaḥyā ibn Ayyūb, Qutaybah and Ibn Ḥujr narrated; they said: Ismāʿīl ibn Jaʿfar narrated [H]. And Ibn Numayr narrated; my father narrated; Sufyān ibn Saʿīd narrated [H]. Further, Ibn al-Muthannā narrated; Muhammad ibn Jaʿfar narrated; Shuʿbah narrated [H]. Also, Ibn al-Muthannā narrated; he said: ʿAbd a-

Wahhāb narrated; ʿUbaydullāh narrated [H]. And Ibn Rāfiʿ narrated; Ibn Abi Fudayk narrated; al-Ḍaḥḥāk (meaning Ibn ʿUthmān) reported; all of these from ʿAbdullāh ibn Dīnār; from Ibn ʿUmar; from the Prophet (peace be upon him): **the same text. However, in his narration from ʿUbaydullāh, al-Thaqafī mentioned only the 'selling' and did not mention the 'gift'.**

وَحَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، وَزُهَيْرُ بْنُ حَرْبٍ، قَالا: حَدَّثَنَا ابْنُ عُيَيْنَةَ، ح. وَحَدَّثَنَا يَحْيَى بْنُ أَيُّوبَ، وَقُتَيْبَةُ، وَابْنُ حُجْرٍ قَالُوا: حَدَّثَنَا إِسْمَاعِيلُ بْنُ جَعْفَرٍ، ح. وَحَدَّثَنَا ابْنُ نُمَيْرٍ، حَدَّثَنَا أَبِي، حَدَّثَنَا سُفْيَانُ بْنُ سَعِيدٍ، ح. وَحَدَّثَنَا ابْنُ الْـمُثَنَّى، حَدَّثَنَا مُحَمَّدُ بْنُ جَعْفَرٍ، حَدَّثَنَا شُعْبَةُ، ح. وَحَدَّثَنَا ابْنُ الْـمُثَنَّى، قَالَ حَدَّثَنَا عَبْدُ الْوَهَّابِ، حَدَّثَنَا عُبَيْدُ اللهِ، ح. وَحَدَّثَنَا ابْنُ رَافِعٍ، حَدَّثَنَا ابْنُ أَبِي فُدَيْكٍ، أَخْبَرَنَا الضَّحَّاكُ (يَعْنِي ابْنَ عُثْمَانَ)، كُلُّ هَؤُلاَءِ عَنْ عَبْدِ اللهِ بْنِ دِينَارٍ، عَنِ ابْنِ عُمَرَ، عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: بِمِثْلِهِ. غَيْرَ أَنَّ الثَّقَفِيَّ لَيْسَ فِي حَدِيثِهِ عَنْ عُبَيْدِ اللهِ إِلاَّ الْبَيْعُ، وَلَمْ يَذْكُرِ الْهِبَةَ.

Text Explanation

This hadith states a clear prohibition of selling or gifting a former slave's allegiance so that he would be inherited by someone other than the one who actually freed him. It makes it clear that neither sale nor gift is valid. The allegiance cannot be transferred from the one who is entitled to it. It sticks to him like a person's relation to his parents. This is agreed upon by scholars of the early and later generations. However, a small number of early scholars said that this transfer of allegiance was permissible, but perhaps they were unaware of this hadith.

i. This hadith is narrated in all six authentic hadith anthologies, but with one or the other of its chains of transmission. Only Muslim combines all these chains as we see here.

CHAPTER 4

PROHIBITION OF CHANGING ALLEGIANCE

[3329–17]. (Dar al-Salam 3598) Muhammad ibn Rāfiʿ narrated to me:[i] ʿAbd al-Razzāq narrated; Ibn Jurayj reported; Abu al-Zubayr reported to me; that **‘he heard Jābir ibn ʿAbdullāh say: “The Prophet (peace be upon him) wrote that each clan bear their blood money”. He then wrote down: “It is not lawful for a Muslim to accept the allegiance of a slave freed by another Muslim without his permission”. I was then informed that in his writing [to clans] he cursed whoever does so.’**

وَحَدَّثَنِي مُحَمَّدُ بْنُ رَافِعٍ، حَدَّثَنَا عَبْدُ الرَّزَّاقِ، أَخْبَرَنَا ابْنُ جُرَيْجٍ، أَخْبَرَنِي أَبُو الزُّبَيْرِ، أَنَّهُ سَمِعَ جَابِرَ بْنَ عَبْدِ اللهِ يَقُولُ: كَتَبَ النَّبِيُّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ عَلَى كُلِّ بَطْنٍ عُقُولَهُ. ثُمَّ كَتَبَ «أَنَّهُ لاَ يَحِلُّ لِمُسْلِمٍ أَنْ يَتَوَالَى مَوْلَى رَجُلٍ مُسْلِمٍ بِغَيْرِ إِذْنِهِ». ثُمَّ أُخْبِرْتُ أَنَّهُ لَعَنَ فِي صَحِيفَتِهِ مَنْ فَعَلَ ذَلِكَ.

[3330–18]. (Dar al-Salam 3599) Qutaybah ibn Saʿīd narrated: Yaʿqūb (meaning Ibn ʿAbd al-Raḥmān al-Qāriy) narrated; from Suhayl; from his father; from Abu Hurayrah; that **‘God’s Messenger (peace be upon him) said: “Whoever gives his allegiance to some people without permission from the ones to**

whom he owes allegiance incurs the curse of God and the angels. No indemnity or atonement is accepted from him”.’

حَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ، حَدَّثَنَا يَعْقُوبُ (يَعْنِي ابْنَ عَبْدِ الرَّحْمَنِ الْقَارِيَّ) عَنْ سُهَيْلٍ، عَنْ أَبِيهِ، عَنْ أَبِي هُرَيْرَةَ، أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: «مَنْ تَوَلَّى قَوْمًا بِغَيْرِ إِذْنِ مَوَالِيهِ، فَعَلَيْهِ لَعْنَةُ اللهِ وَالْـمَلاَئِكَةِ. لاَ يُقْبَلُ مِنْهُ عَدْلٌ وَلاَ صَرْفٌ».

[3331–19]. (Dar al-Salam 3600) Abu Bakr ibn Abi Shaybah narrated: Ḥusayn ibn ʿAlī al-Juʿfī narrated; from Zā’idah; from Sulaymān; from Abu Ṣāliḥ; from Abu Hurayrah; from the Prophet (peace be upon him). He said: **‘Whoever gives his allegiance to some people without permission from the ones to whom he owes allegiance incurs the curse of God, the angels and all mankind. On the Day of Judgement, no indemnity or atonement will be accepted from him’.**

حَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا حُسَيْنُ بْنُ عَلِيٍّ الْجُعْفِيُّ، عَنْ زَائِدَةَ، عَنْ سُلَيْمَانَ، عَنْ أَبِي صَالِحٍ، عَنْ أَبِي هُرَيْرَةَ، عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: «مَنْ تَوَلَّى قَوْمًا بِغَيْرِ إِذْنِ مَوَالِيهِ، فَعَلَيْهِ لَعْنَةُ اللهِ وَالْـمَلاَئِكَةِ وَالنَّاسِ أَجْمَعِينَ. لاَ يُقْبَلُ مِنْهُ يَوْمَ الْقِيَامَةِ عَدْلٌ وَلاَ صَرْفٌ».

[3332–000].[ii] Ibrāhīm ibn Dīnār narrated: ʿUbaydullāh ibn Mūsā narrated; Shaybān narrated; from al-Aʿmash; with the same chain of transmission; except that he said: **‘Whoever attaches his allegiance to other than those to whom he owes it, without their permission...’.**

وَحَدَّثَنِيهِ إِبْرَاهِيمُ بْنُ دِينَارٍ، حَدَّثَنَا عُبَيْدُ اللهِ بْنُ مُوسَى، حَدَّثَنَا شَيْبَانُ، عَنِ الأَعْمَشِ، بِهَذَا الإِسْنَادِ. غَيْرَ أَنَّهُ قَالَ: «وَمَنْ وَالَى غَيْرَ مَوَالِيهِ بِغَيْرِ إِذْنِهِمْ».

[3333–20]. (Dar al-Salam 3601) Abu Kurayb narrated:[iii] Abu Muʿāwiyah narrated: al-Aʿmash narrated; from Ibrāhīm al-Taymī; from his father. He said: **‘ʿAlī ibn Abi Ṭālib addressed us and said: “Whoever alleges that we have something to recite other than God’s Book and this sheet (he said: to a sheet hanging from the sheathe of his sword) is a liar. It states the ages of camels to be given in zakat, and some indemnities for injuries. It also mentions that the Prophet (peace be upon him) said: ‘Madinah is a sanctity between ʿAyr and Thawr. Whoever commits an offence in it or shelters an offender incurs God’s curse and the curse of the angels and all mankind. God will not accept from him anything in indemnity or atonement on the Day of Judgement. A pledge given by the Muslim community is one pledge; it may be given by their lowest in rank. Whoever claims himself to belong to anyone other than his own father, or affiliates himself to any other than the people to whom he owes allegiance, incurs God’s curse and the curse of the angels and all mankind. God will not accept from him anything in indemnity or atonement on the Day of Judgement’.”’**

وَحَدَّثَنَا أَبُو كُرَيْبٍ، حَدَّثَنَا أَبُو مُعَاوِيَةَ، حَدَّثَنَا الأَعْمَشُ، عَنْ إِبْرَاهِيمَ التَّيْمِيِّ، عَنْ أَبِيهِ قَالَ: خَطَبَنَا عَلِيُّ بْنُ أَبِي طَالِبٍ فَقَالَ: مَنْ زَعَمَ أَنَّ عِنْدَنَا شَيْئًا نَقْرَؤُهُ إِلاَّ كِتَابَ اللهِ وَهَذِهِ الصَّحِيفَةَ – قَالَ: وَصَحِيفَةٌ مُعَلَّقَةٌ

فِي قِرَابِ سَيْفِهِ - فَقَدْ كَذَبَ . فِيهَا أَسْنَانُ الإِبِلِ، وَأَشْيَاءُ مِنَ الْجِرَاحَاتِ. وَفِيهَا قَالَ النَّبِيُّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: الْـمَدِينَةُ حَرَمٌ مَا بَيْنَ عَيْرٍ إِلَى ثَوْرٍ. فَمَنْ أَحْدَثَ فِيهَا حَدَثًا أَوْ آوَى مُحْدِثًا فَعَلَيْهِ لَعْنَةُ اللهِ وَالْـمَلاَئِكَةِ وَالنَّاسِ أَجْمَعِينَ. لا يَقْبَلُ اللهُ مِنْهُ يَوْمَ الْقِيَامَةِ صَرْفًا وَلاَ عَدْلاً. وَذِمَّةُ الْـمُسْلِمِينَ وَاحِدَةٌ، يَسْعَى بِهَا أَدْنَاهُمْ. وَمَنِ ادَّعَى إِلَى غَيْرِ أَبِيهِ، أَوِ انْتَمَى إِلَى غَيْرِ مَوَالِيهِ، فَعَلَيْهِ لَعْنَةُ اللهِ وَالْـمَلاَئِكَةِ وَالنَّاسِ أَجْمَعِينَ. لا يَقْبَلُ اللهُ مِنْهُ يَوْمَ الْقِيَامَةِ صَرْفًا وَلاَ عَدْلاً.

Text Explanation

These hadiths state the Prophet's prohibition of a freed slave attaching his allegiance to anyone other than the person who freed him. This is certainly forbidden because it deprives the person who did him a great favour of his right. Allegiance, which gives the person who sets a slave free a right of inheritance from that slave, should he die before him, is akin to a family relation. Hence, it is forbidden to disregard it in the same way as it is forbidden to disregard one's family status and affiliate oneself to anyone other than one's own real father.

In hadith No. 3330, the Prophet says: 'Whoever gives his allegiance to some people without permission from the ones to whom he owes allegiance…'. Some scholars cite this as evidence that it is permissible to give such allegiance to others if the ones to whom one owes allegiance permit this. The correct view agreed upon by the majority of scholars is that it is forbidden even if such permission is granted. This is the same as it is forbidden to claim to be the son of someone other than one's own father, even if the father permits such a claim. They understand the restriction in the hadith, i.e., 'without permission by…', as a reference to the majority of such cases because such claims are mostly done without any prior permission. Therefore, the restriction has no effect. There are similar cases in the Qur'an where a qualification merely mentions the predominant case, such as: 'Forbidden to you in marriage are your mothers… and your stepdaughters who are your foster children…' (4: 23); 'Do not kill your children because of your poverty'. (6: 151) Needless to say, killing one's child for any reason is forbidden. Hence the qualification, 'because of your poverty', has no practical effect.

In the same hadith, No. 3329: 'The Prophet (peace be upon him) wrote that each clan bear their blood money'. This means that the blood money to be paid for accidental killing or manslaughter is payable by the perpetrator's immediate relatives, who are normally his heirs, i.e., his

parents, grandparents, sons, grandsons and even the grades above or lower than these.

Hadith No. 3333 was fully explained earlier in this volume as it occurs as No. 2923.

i. Related by al-Nasā'ī, 4844.
ii. In Dar al-Salam's edition this hadith is attached to the one before it.
iii. Related by al-Bukhari, 1870, 3172, 3179, 6755 and 7300; Abu Dāwūd, 2034; al-Tirmidhī, 2127.

CHAPTER 5

THE MERIT OF FREEING SLAVES

[3334–21]. (Dar al-Salam 3602) Muhammad ibn al-Muthannā al-ʿAnzī narrated; Yaḥyā ibn Saʿīd narrated; from ʿAbdullāh ibn Saʿīd (who is Ibn Abi Hind); Ismāʿīl ibn Abi Ḥakīm narrated to me; from Saʿīd ibn Marjānah; from Abu Hurayrah; from the Prophet (peace be upon him) who said: **‘When a person sets a slave who is a believer free, God will free from the Fire one of his organs for every one of the slave’s organs’.**

حَدَّثَنَا مُحَمَّدُ بْنُ الْـمُثَنَّى الْعَنَزِيُّ، حَدَّثَنَا يَحْيَى بْنُ سَعِيدٍ، عَنْ عَبْدِ اللهِ بْنِ سَعِيدٍ (وَهُوَ ابْنُ أَبِي هِنْدٍ) حَدَّثَنِي إِسْمَاعِيلُ بْنُ أَبِي حَكِيمٍ، عَنْ سَعِيدِ ابْنِ مَرْجَانَةَ، عَنْ أَبِي هُرَيْرَةَ، عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: «مَنْ أَعْتَقَ رَقَبَةً مُؤْمِنَةً أَعْتَقَ اللهُ بِكُلِّ إِرْبٍ مِنْهَا إِرْبًا مِنْهُ مِنَ النَّارِ».

[3335–22]. (Dar al-Salam 3603) Dāwūd ibn Rushayd narrated: al-Walīd ibn Muslim narrated; from Muhammad ibn Muṭarrif Abi Ghassān al-Madanī; from Zayd ibn Aslam; from ʿAlī ibn Ḥusayn; from Saʿīd ibn Marjānah; from Abu Hurayrah; from God’s Messenger (peace be upon him). He said: **‘Whoever sets a slave free, then for every organ of that slave God will free one of his organs from the Fire, right down to the genitals’.**

وَحَدَّثَنَا دَاوُدُ بْنُ رُشَيْدٍ، حَدَّثَنَا الْوَلِيدُ بْنُ مُسْلِمٍ، عَنْ مُحَمَّدِ بْنِ مُطَرِّفٍ أَبِي غَسَّانَ الْـمَدَنِيِّ، عَنْ زَيْدِ بْنِ أَسْلَمَ، عَنْ عَلِيِّ بْنِ حُسَيْنٍ، عَنْ سَعِيدِ ابْنِ مَرْجَانَةَ، عَنْ أَبِي هُرَيْرَةَ، عَنْ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: «مَنْ أَعْتَقَ رَقَبَةً أَعْتَقَ اللهُ بِكُلِّ عُضْوٍ مِنْهَا عُضْوًا مِنْ أَعْضَائِهِ مِنَ النَّارِ، حَتَّى فَرْجَهُ بِفَرْجِهِ».

[3336–23]. (Dar al-Salam 3604) Qutaybah ibn Saʿīd narrated: Layth narrated; from Ibn al-Hād; from ʿUmar ibn ʿAlī ibn Ḥusayn; from Saʿīd ibn Marjānah; from Abu Hurayrah. He said: **‘I heard God’s Messenger (peace be upon him) say: “Whoever sets free a slave who is a believer, then for every organ of that slave God will free one of his organs from the Fire, right down to freeing a genital for a genital”.’**

وَحَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ، حَدَّثَنَا لَيْثٌ، عَنِ ابْنِ الْهَادِ، عَنْ عُمَرَ بْنِ عَلِيِّ بْنِ حُسَيْنٍ، عَنْ سَعِيدِ ابْنِ مَرْجَانَةَ، عَنْ أَبِي هُرَيْرَةَ، قَالَ سَمِعْتُ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ يَقُولُ: «مَنْ أَعْتَقَ رَقَبَةً مُؤْمِنَةً أَعْتَقَ اللهُ بِكُلِّ عُضْوٍ مِنْهُ عُضْوًا مِنَ النَّارِ، حَتَّى يُعْتِقَ فَرْجَهُ بِفَرْجِهِ».

[3337–24]. (Dar al-Salam 3605) Ḥumayd ibn Masʿadah nar-rated to me: Bishr ibn al-Mufaḍḍal narrated; ʿĀṣim (who is Ibn Muhammad al-ʿUmarī) narrated; Wāqid (meaning his brother) narrated; Saʿīd ibn Marjānah (ʿAlī ibn Ḥusayn’s friend) narrated to me. **He said: ‘I heard Abu Hurayrah say: “God’s Messenger (peace be upon him) said: ‘For any Muslim who frees a Muslim slave, God will save from the Fire one of his organs in return**

for every one of the slave’s organs”. When I heard this hadith from Abu Hurayrah, I went to see ʿAlī ibn al-Ḥusayn and mentioned it to him. He set free a slave of his for whom Ibn Jaʿfar had offered him ten thousand dirhams, or one thousand dīnārs’.

وَحَدَّثَنِي حُمَيْدُ بْنُ مَسْعَدَةَ، حَدَّثَنَا بِشْرُ بْنُ الْـمُفَضَّلِ، حَدَّثَنَا عَاصِمٌ (وَهُوَ ابْنُ مُحَمَّدٍ الْعُمَرِيُّ)، حَدَّثَنَا وَاقِدٌ (يَعْنِي أَخَاهُ)، حَدَّثَنِي سَعِيدُ ابْنُ مَرْجَانَةَ (صَاحِبُ عَلِيِّ بْنِ حُسَيْنٍ)، قَالَ سَمِعْتُ أَبَا هُرَيْرَةَ يَقُولُ: قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «أَيُّمَا امْرِئٍ مُسْلِمٍ أَعْتَقَ امْرَأً مُسْلِمًا، اسْتَنْقَذَ اللهُ بِكُلِّ عُضْوٍ مِنْهُ عُضْوًا مِنْهُ مِنَ النَّارِ». قَالَ: فَانْطَلَقْتُ حِينَ سَمِعْتُ الْحَدِيثَ مِنْ أَبِي هُرَيْرَةَ فَذَكَرْتُهُ لِعَلِيِّ بْنِ الْحُسَيْنِ، فَأَعْتَقَ عَبْدًا لَهُ قَدْ أَعْطَاهُ بِهِ ابْنُ جَعْفَرٍ عَشْرَةَ آلاَفِ دِرْهَمٍ، أَوْ أَلْفَ دِينَارٍ.

Text Explanation

The hadiths in this chapter speak about the merit of freeing slaves and that it is considered one of the best things a person can do. It is an action that leads to salvation from punishment in hell and admittance into heaven. The hadiths show that it is desirable to free the entire body of the slave, so that one chooses a person who has all his body intact, not a castrated one, or one who has lost a limb or some other organ. Yet even if one frees a castrated slave or one with a missing limb, one earns rich reward from God. However, the reward for freeing a healthy and perfectly bodied slave is much better. Needless to say, the best slave to free is the best and highest in price, as explained at the beginning of the Book of Faith.

Abu Dāwūd, al-Tirmidhī, al-Nasā'ī and others narrated from Sālim ibn Abi al-Jaʿd, from Abu Umāmah and other Companions of the Prophet that the Prophet (peace be upon him) said: 'When any Muslim man frees a Muslim slave, the freed one will be his own saviour from the Fire, with every part of the freed slave saving a part of him. When any Muslim man frees two Muslim women slaves, they will be his saviour from the Fire, with every part of them saving a part of him. When any Muslim woman frees a Muslim slave woman, the slaved woman will be her saviour from the Fire, with every part of her [i.e., the freed slave woman] saving a part of her [i.e., the woman setting her free]'. Al-Tirmidhī said that this is a good, authentic hadith.

He and others said that this hadith shows that freeing a male slave is more preferable to freeing a slave woman. *Qadi* ʿIyāḍ said:

> Scholars differ as to who is better to set free: slave men or slave women. Some said females are better to free because when a slave woman is set free, her children are free whether she marries a free man or a slave. Other scholars said that freeing male slaves is preferable as indicated in this hadith. Moreover, males provide

> benefits which females do not, such as serving as witnesses or judges and going on jihad as well as other matters that are special for men, either from a religious point of view or life practice. Furthermore, some slave women prefer not to be freed because they cannot provide for themselves. This is not the case with male slaves. This view is the correct one.

These hadiths qualify the freed slave as being a believer. This shows that this particular merit depends on freeing a slave who is a believer. To free an unbeliever slave certainly has its merits, and there is no disagreement on this point, but it is less meritorious than freeing a believer slave. Therefore, scholars are unanimous that in the case of indemnity for accidental killing, the freed slave must be a believer. *Qadi* ʿIyāḍ reports that Mālik considered that a slave with a higher price is preferable, even if he is an unbeliever. However, a number of his disciples, as well as other scholars, disagree with Mālik on this point. This is more valid.

CHAPTER 6

FREEING ONE'S PARENT FROM SLAVERY

[3338–25]. (Dar al-Salam 3606-3607) Abu Bakr ibn Abi Shaybah and Zuhayr ibn Ḥarb narrated: both said; Jarīr narrated; from Suhayl; from his father; from Abu Hurayrah. He said: **'God's Messenger (peace be upon him) said: "No child repays a parent except in the case when the child finds his father in slavery, buys him and sets him free".'**

In Ibn Abi Shaybah's narration: **'repays his parent'.**

حَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، وَزُهَيْرُ بْنُ حَرْبٍ، قَالا: حَدَّثَنَا جَرِيرٌ، عَنْ سُهَيْلٍ، عَنْ أَبِيهِ، عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «لا يَجْزِي وَلَدٌ وَالِدًا، إِلاَّ أَنْ يَجِدَهُ مَمْلُوكًا فَيَشْتَرِيَهُ فَيُعْتِقَهُ».

وَفِي رِوَايَةِ ابْنِ أَبِي شَيْبَةَ «وَلَدٌ وَالِدَهُ».

Abu Kurayb narrated: Wakīʿ narrated [H]. Also, Ibn Numayr narrated; my father narrated [H]. And, ʿAmr al-Nāqid narrated to me; Abu Ahmad al-Zubayrī narrated; all of them from Sufyān; from Suhayl; with the same chain of transmission: **the same text, but they said: 'repays his parent'.**

وَحَدَّثَنَاهُ أَبُو كُرَيْبٍ، حَدَّثَنَا وَكِيعٌ، ح. وَحَدَّثَنَا ابْنُ نُمَيْرٍ، حَدَّثَنَا أَبِي ح. وَحَدَّثَنِي عَمْرٌو النَّاقِدُ، حَدَّثَنَا أَبُو أَحْمَدَ الزُّبَيْرِيُّ، كُلُّهُمْ عَنْ سُفْيَانَ، عَنْ

سُهَيْلٍ، بِهَذَا الإِسْنَادِ: مِثْلَهُ. وَقَالُوا: «وَلَدٌ وَالِدَهُ».

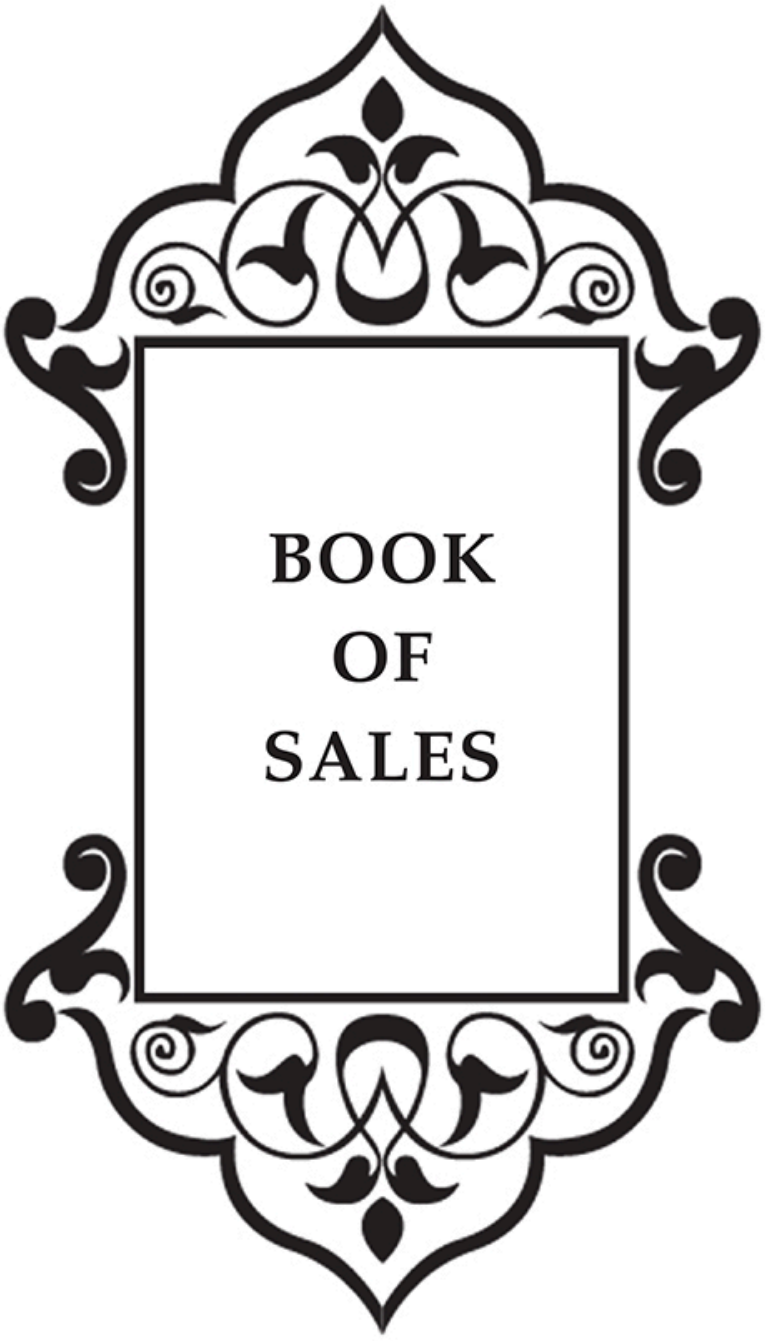
Text Explanation

The hadith means that what a parent does for their child, looking after it and taking care of it is too great for any son or daughter to repay, except in this specified case of freeing the parent from slavery.

Scholars differ concerning the freeing of relatives when they are owned. Ẓāhirī scholars say that no relative, whether father or son or any other, is freed merely by being owned by a relative. It is necessary to initiate the freeing of that person. They rely on this hadith as their evidence. The great majority of scholars say that the slave's freedom automatically takes place once ownership by such a relation has taken place. This applies to fathers, mothers, grandfathers and grandmothers and even those who are a grade or more higher, and also to sons and daughters as well as their male and female children and grandchildren. This is true whether they are Muslim or non-Muslim, near or distant, heirs or not. In short, the freedom applies to those in the direct line of ancestry.

Scholars differ in their views regarding other relatives. Al-Shāfiʿī and his disciples said that no one other than those in the direct line [i.e., parents, grandparents, children and grandchildren, and those higher or lower] is automatically freed when they happen to be owned by such relatives, not even siblings. Mālik said that siblings, i.e., brothers and sisters, are also automatically freed by mere ownership. Another view reported from Mālik is that all unmarriageable relatives, i.e., *maḥrams*, are freed by ownership. A third view reported from Mālik is the same as the view of the Shāfiʿī School. Abu Ḥanīfah said that all unmarriageable relatives are freed by mere ownership.

The majority of scholars explain the hadith mentioned in this chapter as meaning that when a person has taken steps to buy a person whom he is obliged to set free, that person's freedom is attached to the purchase, but God knows best.


BOOK
OF
SALES

CHAPTER 1

THE INVALIDATION OF SALE BY TOUCH OR CASTING

[3339–1]. (Dar al-Salam 3608-3611) Yaḥyā ibn Yaḥyā al-Tamīmī narrated:[i] he said: I read out to Mālik; from Muhammad ibn Yaḥyā ibn Ḥabbān; from al-Aʿraj; from Abu Hurayrah that **‘God’s Messenger (peace be upon him) prohibited sale by touch and casting’.**

حَدَّثَنَا يَحْيَى بْنُ يَحْيَى التَّمِيمِيُّ، قَالَ قَرَأْتُ عَلَى مَالِكٍ، عَنْ مُحَمَّدِ بْنِ يَحْيَى بْنِ حَبَّانَ، عَنِ الأَعْرَجِ، عَنْ أَبِي هُرَيْرَةَ، أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ نَهَى عَنِ الْـمُلاَمَسَةِ وَالْـمُنَابَذَةِ.

Abu Kurayb and Ibn Abi ʿUmar narrated:[ii] both said: Wakīʿ narrated; from Sufyān; from Abu al-Zināḍ; from al-Aʿraj; from Abu Hurayrah; from the Prophet: **the same text.**

وَحَدَّثَنَا أَبُو كُرَيْبٍ، وَابْنُ أَبِي عُمَرَ، قَالا: حَدَّثَنَا وَكِيعٌ، عَنْ سُفْيَانَ، عَنْ أَبِي الزِّنَادِ، عَنِ الأَعْرَجِ، عَنْ أَبِي هُرَيْرَةَ، عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: مِثْلَهُ.

Abu Bakr ibn Abi Shaybah narrated:[iii] Ibn Numayr and Abu Usāmah narrated [H]. Also, Muhammad ibn ʿAbdullāh ibn Numayr

narrated; my father narrated [H]. And Muhammad ibn al-Muthannā narrated; ʿAbd al-Wahhāb narrated; all of them from ʿUbaydullāh ibn ʿUmar; from Khubayb ibn ʿAbd al-Raḥmān; from Ḥafṣ ibn ʿĀṣim; from Abu Hurayrah; from the Prophet (peace be upon him): **the same text.**

وَحَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا ابْنُ نُمَيْرٍ، وَأَبُو أُسَامَةَ ح. وَحَدَّثَنَا مُحَمَّدُ بْنُ عَبْدِ اللهِ بْنِ نُمَيْرٍ، حَدَّثَنَا أَبِي ح. وَحَدَّثَنَا مُحَمَّدُ بْنُ الْـمُثَنَّى، حَدَّثَنَا عَبْدُ الْوَهَّابِ، كُلُّهُمْ عَنْ عُبَيْدِ اللهِ بْنِ عُمَرَ، عَنْ خُبَيْبِ بْنِ عَبْدِ الرَّحْمَنِ، عَنْ حَفْصِ بْنِ عَاصِمٍ، عَنْ أَبِي هُرَيْرَةَ، عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: بِمِثْلِهِ.

Qutaybah ibn Saʿīd narrated; Yaʿqūb (meaning Ibn ʿAbd al-Raḥmān) narrated; from Suhayl ibn Abi Ṣāliḥ; from his father; from Abu Hurayrah; from the Prophet (peace be upon him): **the same text.**

وَحَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ، حَدَّثَنَا يَعْقُوبُ (يَعْنِي ابْنَ عَبْدِ الرَّحْمَنِ)، عَنْ سُهَيْلِ بْنِ أَبِي صَالِحٍ، عَنْ أَبِيهِ، عَنْ أَبِي هُرَيْرَةَ، عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: مِثْلَهُ.

[3340–2]. (Dar al-Salam 3612) Muhammad ibn Rāfiʿ narrated to me:[iv] ʿAbd al-Razzāq narrated; Ibn Jurayj reported; ʿAmr ibn Dīnār reported to me; from ʿAṭāʾ ibn Mīnāʾ; that he heard him narrating from Abu Hurayrah; that he said: **‘Two sale transactions have been prohibited: touch and casting. The touch sale means that each of the two parties touches the other’s robe without**

examining it, while the casting means that each of them casts his robe to the other, without either of them having looked at the other’s robe’.

وَحَدَّثَنِي مُحَمَّدُ بْنُ رَافِعٍ، حَدَّثَنَا عَبْدُ الرَّزَّاقِ، أَخْبَرَنَا ابْنُ جُرَيْجٍ، أَخْبَرَنِي عَمْرُو بْنُ دِينَارٍ، عَنْ عَطَاءِ بْنِ مِينَاءَ، أَنَّهُ سَمِعَهُ يُحَدِّثُ، عَنْ أَبِي هُرَيْرَةَ أَنَّهُ قَالَ: نُهِيَ عَنْ بَيْعَتَيْنِ، الْـمُلاَمَسَةِ وَالْـمُنَابَذَةِ . أَمَّا الْـمُلاَمَسَةُ فَأَنْ يَلْمِسَ كُلُّ وَاحِدٍ مِنْهُمَا ثَوْبَ صَاحِبِهِ بِغَيْرِ تَأَمُّلٍ، وَالْـمُنَابَذَةُ أَنْ يَنْبِذَ كُلُّ وَاحِدٍ مِنْهُمَا ثَوْبَهُ إِلَى الآخَرِ، وَلَمْ يَنْظُرْ وَاحِدٌ مِنْهُمَا إِلَى ثَوْبِ صَاحِبِهِ.

[3341–3]. (Dar al-Salam 3613) Abu al-Ṭāhir and Ḥarmalah ibn Yaḥyā narrated to me (Ḥarmalah’s text):[v] both said: Ibn Wahb reported; Yūnus reported to me; from Ibn Shihāb; ʿĀmir ibn Saʿd ibn Abi Waqqāṣ reported to me; that Abu Saʿīd al-Khudrī said: **‘God’s Messenger (peace be upon him) prohibited us two sale transactions and two types of garment wearing: he prohibited touch and casting sales. A touch sale means that a man touches the other’s robe with his hand, at night or day, without turning it beyond that [touch]. The casting is that a man casts his robe to the other and the latter in turn casts his robe to him. Such is their deal, without careful looking or mutual agreement’.**

وَحَدَّثَنِي أَبُو الطَّاهِرِ، وَحَرْمَلَةُ بْنُ يَحْيَى (وَاللَّفْظُ لِحَرْمَلَةَ) قَالا: أَخْبَرَنَا ابْنُ وَهْبٍ، أَخْبَرَنِي يُونُسُ، عَنِ ابْنِ شِهَابٍ، أَخْبَرَنِي عَامِرُ بْنُ سَعْدِ بْنِ أَبِي وَقَّاصٍ، أَنَّ أَبَا سَعِيدٍ الْخُدْرِيَّ قَالَ: نَهَانَا رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ عَنْ بَيْعَتَيْنِ وَلِبْسَتَيْنِ: نَهَى عَنِ الْـمُلاَمَسَةِ وَالْـمُنَابَذَةِ فِي الْبَيْعِ .

وَالْـمُلاَمَسَةُ لَمْسُ الرَّجُلِ ثَوْبَ الآخَرِ بِيَدِهِ، بِاللَّيْلِ أَوْ بِالنَّهَارِ، وَلاَ يَقْلِبُهُ إِلاَّ بِذَلِكَ. وَالْـمُنَابَذَةُ أَنْ يَنْبِذَ الرَّجُلُ إِلَى الرَّجُلِ بِثَوْبِهِ، وَيَنْبِذَ الآخَرُ إِلَيْهِ ثَوْبَهُ، وَيَكُونُ ذَلِكَ بَيْعَهُمَا مِنْ غَيْرِ نَظَرٍ وَلاَ تَرَاضٍ.

ʿAmr al-Nāqid narrated to me: Yaʿqūb ibn Ibrāhīm ibn Saʿd narrated; my father narrated; from Ṣāliḥ; from Ibn Shihāb; with the same chain of transmission: **the same text**.

وَحَدَّثَنِيهِ عَمْرٌو النَّاقِدُ، حَدَّثَنَا يَعْقُوبُ بْنُ إِبْرَاهِيمَ بْنِ سَعْدٍ، حَدَّثَنَا أَبِي، عَنْ صَالِحٍ، عَنِ ابْنِ شِهَابٍ، بِهَذَا الإِسْنَادِ.

Text Explanation

Qadi ʿIyāḍ mentions one explanation of these sales. Our Shāfiʿī scholars provide three different versions in explaining the touch transaction. One of these is al-Shāfiʿī's own: 'The seller brings a folded robe, or brings it in darkness, and the buyer touches it. The seller then says to him: "I sell it to you for so much on condition that your touch is sufficient for a look, and you have no option of return when you have seen it".' Another way is that the two parties agree that the mere touch concludes the sale, as the seller says to the buyer: 'If you touch it, you have bought it'. The third way is that the vendor sells the article to the buyer on condition that once he has touched it, the option to withdraw is no longer operative. Such a transaction is invalid in all its three versions.

The casting transaction also has three different versions. The first concludes the sale by the very casting of the article. This is al-Shāfiʿī's explanation. In the second version, the vendor says to the buyer: 'I sell it to you, and once I cast it to you, you no longer have any option because the sale is completed'. The third is by casting a little stone. We will explain this in the next chapter, God willing. These transactions are invalid because of the lack of clarity.

Transmission

The chain of transmission of the first hadith, No. 3339, mentions Mālik from Muhammad ibn Yaḥyā ibn Ḥabbān from al-Aʿraj. This is how it occurs in all manuscripts in our areas. *Qadi* ʿIyāḍ mentions that in their copies quoting ʿAbd al-Ghāfir al-Fārisī the chain of transmission adds Nāfiʿ, so as to make it: 'Mālik from Nāfiʿ from Muhammad ibn Yaḥyā ibn Ḥabbān'. *Qadi* ʿIyāḍ comments: 'This is wrong. There is no mention of Nāfiʿ in this hadith. Mālik does not mention Nāfiʿ in the reporting of this hadith in his book *al-Muwaṭṭa'*'.

i. Related by al-Bukhari, 2146; al-Nasā'ī, 4521.
ii. Related by al-Bukhari in a longer version, 368; al-Tirmidhī, 1310.
iii. Related by al-Bukhari, 584, 588 and 5819; al-Nasā'ī in a longer version, 4529; Ibn Mājah, 1248, 2169 and 3560.
iv. Related by al-Bukhari, 1993.
v. Related by al-Bukhari, 2144 and in a longer version, 5820; Abu Dāwūd, 3379; al-Nasā'ī, 4522 and 4523.

CHAPTER 2

INVALID DECEPTIVE SALES

[3342–4]. (Dar al-Salam 3614) Abu Bakr ibn Abi Shaybah narrated:[i] ʿAbdullāh ibn Idrīs, Yaḥyā ibn Saʿīd and Abu Usāmah narrated; from ʿUbaydullāh [H]. Also, Zuhayr ibn Ḥarb narrated to me (his text); Yaḥyā ibn Saʿīd narrated; from ʿUbaydullāh; Abu al-Zinād narrated to me; from al-Aʿraj; from Abu Hurayrah. He said: **‘God’s Messenger (peace be upon him) prohibited the sale effected by the casting of a stone and the sale lacking clarity’.**

وَحَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا عَبْدُ اللهِ بْنُ إِدْرِيسَ، وَيَحْيَى بْنُ سَعِيدٍ، وَأَبُو أُسَامَةَ عَنْ عُبَيْدِ اللهِ، ح. وَحَدَّثَنِي زُهَيْرُ بْنُ حَرْبٍ (وَاللَّفْظُ لَهُ)، حَدَّثَنَا يَحْيَى بْنُ سَعِيدٍ، عَنْ عُبَيْدِ اللهِ، حَدَّثَنِي أَبُو الزِّنَادِ، عَنِ الأَعْرَجِ، عَنْ أَبِي هُرَيْرَةَ قَالَ: نَهَى رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ عَنْ بَيْعِ الْحَصَاةِ، وَعَنْ بَيْعِ الْغَرَرِ.

Text Explanation

There are three forms explaining a transaction made with the throwing of a small stone. The first is that the seller says to the buyer: ‘I am selling you one of these robes, which is the one hit by this stone I am about to throw; or I am selling you a portion of this land marked by the point where this stone falls’. The second form is that the seller says: ‘I am selling this to you, and you have the option until I cast this stone’. The third form is that the two parties agree that the mere casting of the stone concludes the transaction. Thus, the vendor says to the buyer: ‘when I throw the stone on this robe, it is sold to you at such-and-such a price’.

The prohibition of sale transactions that lack clarity is a major heading in the Book of Sales. This is the reason why Muslim places it at this early point. It includes a great variety of cases, such as selling a run-away slave whose residence is unknown, selling what is non-existent, or unknown, or what the seller is unable to deliver, or what the seller does not own. Likewise, it includes selling fish in a large body of water, milk which is still in an udder, an unborn calf, an undefined heap of articles, one robe out of a quantity of robes, one sheep out of a flock, etc. All such transactions are invalid because they are unclear and as such lack clarity.

Some lack of clarity is tolerated in sales if it is unavoidable, such as selling a house without a clear idea about its foundation, because the foundation cannot be seen, and it forms part of the building. The same is the case of selling a pregnant sheep with a clearly full udder. There is a broad consensus that it is permissible to conduct transactions that involve a small measure of uncertainty, such as selling a stuffed coat or quilt, even if the buyer cannot see what it is stuffed with, but it is not permissible to sell the stuffing on its own. It is also unanimously agreed upon that it is permissible to let a house, a horse or some article for a lunar month, although such a month may be 29 or 30 days. Likewise, it is agreed that a public bath may be used for a set fee, although people differ in how much water they use and

how long they stay. Further, it is permissible to buy a drink from a large container, although the amount of the drink is unspecified. By contrast, it is agreed that unborn calves and birds in the sky cannot be sold.

Scholars agree that the reason for the prohibition of such sale transactions is the lack of clarity. Likewise, they agree to the validity of similar sales, despite having an element of uncertainty because such an element is small and cannot be avoided without undertaking some hardship, while such transactions are necessary. In some cases, scholars differ in their verdicts, with some saying that a case is permissible and others saying it is not. This is due to how they estimate the lack of clarity: if they think that it is trifling, they treat it as non-existent, while those who consider it important judge the transaction as invalid, but God knows best.

It should be stated that sales by touch, casting, future pregnancy, stone casting and renting a male animal for mating are all transactions that lack clarity and are unlawful in Islam. However, they are specifically mentioned because they were common in pre-Islamic days, but God knows best.

i. Related by Abu Dāwūd, 3376; al-Tirmidhī, 1230; al-Nasā’ī, 4530; Ibn Mājah, 2194.

CHAPTER 3

THE PROHIBITION OF SELLING UNBORN CALVES

[3343–5]. (Dar al-Salam 3615) Yaḥyā ibn Yaḥyā and Muhammad ibn Rumḥ narrated:[i] both said: al-Layth reported [H]. Also, Qutaybah ibn Saʿīd narrated; Layth narrated; from Nāfiʿ; from ʿAbdullāh; from God's Messenger (peace be upon him) that **'He prohibited the sale of an unborn calf'.**

حَدَّثَنَا يَحْيَى بْنُ يَحْيَى، وَمُحَمَّدُ بْنُ رُمْحٍ، قَالا: أَخْبَرَنَا اللَّيْثُ، ح. وَحَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ، حَدَّثَنَا لَيْثٌ، عَنْ نَافِعٍ، عَنْ عَبْدِ اللهِ، عَنْ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ أَنَّهُ نَهَى عَنْ بَيْعِ حَبَلِ الْحَبَلَةِ.

[3344–6]. (Dar al-Salam 3616) Zuhayr ibn Ḥarb and Muhammad ibn al-Muthannā narrated to me (Zuhayr's text):[ii] both said: Yaḥyā (who is al-Qaṭṭān) narrated; from ʿUbaydullāh; Nāfiʿ reported to me; from Ibn ʿUmar that **'In pre-Islamic days, people made transactions selling a camel up to the time when the unborn calf gets pregnant. This means that a she-camel gives birth and the one born to her becomes pregnant. God's Messenger prohibited such a transaction'.**

حَدَّثَنِي زُهَيْرُ بْنُ حَرْبٍ، وَمُحَمَّدُ بْنُ الْـمُثَنَّى (وَاللَّفْظُ لِزُهَيْرٍ) قَالا: حَدَّثَنَا يَحْيَى (وَهُوَ الْقَطَّانُ)، عَنْ عُبَيْدِ اللهِ، أَخْبَرَنِي نَافِعٌ، عَنِ ابْنِ عُمَرَ، قَالَ: كَانَ أَهْلُ الْجَاهِلِيَّةِ يَتَبَايَعُونَ لَحْمَ الْجَزُورِ إِلَى حَبَلِ الْحَبَلَةِ . وَحَبَلُ الْحَبَلَةِ أَنْ تُنْتَجَ النَّاقَةُ، ثُمَّ تَحْمِلَ الَّتِي نُتِجَتْ، فَنَهَاهُمْ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ عَنْ ذَلِكَ.

Text Explanation

Scholars differ as to the meaning of selling an unborn calf. Some said that it is a transaction where the price is deferred until a certain she-camel has given birth and the calf born to her grows up and gives birth. Muslim mentions this explanation in this hadith as stated by Ibn ʿUmar. This is the explanation agreed upon by Mālik, al-Shāfiʿī and many others.

Other scholars said that it refers to selling the unborn calf and concluding the transaction immediately. This is the explanation of Abu ʿUbaydah Maʿmar ibn al-Muthannā, his colleague Abu ʿUbayd al-Qāsim ibn Sallām, other linguists, as well as Ahmad ibn Ḥanbal and Isḥāq ibn Rāhawayh.

This second explanation is closer to the linguistic meaning of the hadith, but the hadith is narrated by Ibn ʿUmar and he opted for the first explanation. He certainly knows the context better. According to al-Shāfiʿī and leading scholars of methodology, an explanation stated by the narrator takes priority, unless it is contrary to the apparent meaning.

This sale is invalid whichever explanation is given to it. On the basis of the first explanation, it is invalid because it is a transaction stating a price payable at an unknown date, and the date is a factor in determining the price. According to the second explanation, it is selling something which is non-existent, unknown, unowned by the seller and undeliverable, but God knows best.

i. Related by al-Nasā’ī, 4638.

ii. Related by al-Bukhari, 3843; Abu Dāwūd in a shorter version, 3381.

CHAPTER 4

THE PROHIBITION OF OUTBIDDING AND UNFAIR TRANSACTIONS

[3345–7]. (Dar al-Salam 3617) Yaḥyā ibn Yaḥyā narrated:[i] he said: I read out to Mālik; from Nāfiʿ; from Ibn ʿUmar; that **‘God’s Messenger (peace be upon him) said: “Do not offer a sale when someone else is making a deal”.’**

حَدَّثَنَا يَحْيَى بْنُ يَحْيَى، قَالَ قَرَأْتُ عَلَى مَالِكٍ، عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ، أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: «لا يَبِعْ بَعْضُكُمْ عَلَى بَيْعِ بَعْضٍ».

[3346–8]. (Dar al-Salam 3618) Zuhayr ibn Ḥarb and Muhammad ibn al-Muthannā narrated (Zuhayr’s text):[ii] Yaḥyā narrated; from ʿUbaydullāh; Nāfiʿ reported to me; from Ibn ʿUmar; from the Prophet. He said: **‘Let no one offer a sale when his brother is making a deal. No one may make a proposal of marriage when his brother has made a proposal [to the same woman], unless the latter permits him’.**

حَدَّثَنَا زُهَيْرُ بْنُ حَرْبٍ، وَمُحَمَّدُ بْنُ الْـمُثَنَّى (وَاللَّفْظُ لِزُهَيْرٍ) قَالا: حَدَّثَنَا يَحْيَى، عَنْ عُبَيْدِ اللهِ، أَخْبَرَنِي نَافِعٌ، عَنِ ابْنِ عُمَرَ، عَنِ النَّبِيِّ صَلَّى اللهُ

عَلَيْهِ وَسَلَّمَ قَالَ: «لا يَبِعِ الرَّجُلُ عَلَى بَيْعِ أَخِيهِ، وَلا يَخْطُبْ عَلَى خِطْبَةِ أَخِيهِ، إِلاَّ أَنْ يَأْذَنَ لَهُ».

[3347–9]. (Dar al-Salam 3619) Yaḥyā ibn Ayyūb, Qutaybah ibn Saʿīd and Ibn Ḥujr narrated: they said: Ismāʿīl (who is Ibn Jaʿfar) narrated; from al-ʿAlā’; from his father; from Abu Hurayrah; that **‘God’s Messenger (peace be upon him) said: “Let no Muslim offer to buy what his brother is buying”.’**

حَدَّثَنَا يَحْيَى بْنُ أَيُّوبَ، وَقُتَيْبَةُ بْنُ سَعِيدٍ، وَابْنُ حُجْرٍ قَالُوا: حَدَّثَنَا إِسْمَاعِيلُ (وَهُوَ ابْنُ جَعْفَرٍ)، عَنِ الْعَلاَءِ، عَنْ أَبِيهِ، عَنْ أَبِي هُرَيْرَةَ، أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: «لا يَسُمِ الْـمُسْلِمُ عَلَى سَوْمِ أَخِيهِ».

[3348–10].[iii] Ahmad ibn Ibrāhīm al-Dawraqī narrated to me; ʿAbd al-Ṣamad narrated to me; Shuʿbah narrated; from al-ʿAlā’ and Suhayl; from their father; from Abu Hurayrah; from the Prophet (peace be upon him) [H]. Also, Muhammad ibn al-Muthannā narrated; ʿAbd al-Ṣamad narrated; Shuʿbah narrated; from al-Aʿmash; from Abu Ṣāliḥ; from Abu Hurayrah; from the Prophet (peace be upon him) [H]. And ʿUbaydullāh ibn Muʿādh narrated; my father narrated; Shuʿbah narrated; from ʿAdiy (who is Ibn Thābit); from Abu Ḥāzim; from Abu Hurayrah; that **‘God’s Messenger prohibited that one should offer to buy what his brother is buying’.**

The wording is slightly different in al-Dawraqī’s version.

وَحَدَّثَنِيهِ أَحْمَدُ بْنُ إِبْرَاهِيمَ الدَّوْرَقِيُّ، حَدَّثَنِي عَبْدُ الصَّمَدِ، حَدَّثَنَا شُعْبَةُ، عَنِ الْعَلاَءِ وَسُهَيْلٍ، عَنْ أَبِيهِمَا، عَنْ أَبِي هُرَيْرَةَ، عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ ح. وَحَدَّثَنَاهُ مُحَمَّدُ بْنُ الْـمُثَنَّى، حَدَّثَنَا عَبْدُ الصَّمَدِ، حَدَّثَنَا شُعْبَةُ، عَنِ الأَعْمَشِ، عَنْ أَبِي صَالِحٍ، عَنْ أَبِي هُرَيْرَةَ، عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ ح. وَحَدَّثَنَا عُبَيْدُ اللهِ بْنُ مُعَاذٍ، حَدَّثَنَا أَبِي، حَدَّثَنَا شُعْبَةُ، عَنْ عَدِيٍّ (وَهُوَ ابْنُ ثَابِتٍ)، عَنْ أَبِي حَازِمٍ، عَنْ أَبِي هُرَيْرَةَ، أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ نَهَى أَنْ يَسْتَامَ الرَّجُلُ عَلَى سَوْمِ أَخِيهِ . وَفِي رِوَايَةِ الدَّوْرَقِيِّ عَلَى سِيمَةِ أَخِيهِ.

[3349–11]. (Dar al-Salam 3620) Yaḥyā ibn Yaḥyā narrated:[iv] he said: I read out to Mālik; from Abu al-Zināḍ; from al-Aʿraj; from Abu Hurayrah; that **‘God’s Messenger (peace be upon him) said: “Travellers arriving for a sale transaction may not be met. Do not undersell each other, and do not help to raise the price. Let not an urban person sell on behalf of a Bedouin. Do not retain milk in camel and sheep udders. Whoever buys one such has both options after he has milked it. If he is satisfied, he retains it but if he is not, he may return it with a *ṣā*ʿ[v] of dates”.’**

حَدَّثَنَا يَحْيَى بْنُ يَحْيَى، قَالَ قَرَأْتُ عَلَى مَالِكٍ، عَنْ أَبِي الزِّنَادِ، عَنِ الأَعْرَجِ، عَنْ أَبِي هُرَيْرَةَ، أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: لا يُتَلَقَّى الرُّكْبَانُ لِبَيْعٍ. وَلا يَبِعْ بَعْضُكُمْ عَلَى بَيْعِ بَعْضٍ. وَلا تَنَاجَشُوا، وَلا يَبِعْ حَاضِرٌ لِبَادٍ، وَلا تُصَرُّوا الإِبِلَ وَالْغَنَمَ. فَمَنِ ابْتَاعَهَا بَعْدَ ذَلِكَ فَهُوَ بِخَيْرِ النَّظَرَيْنِ بَعْدَ أَنْ يَحْلُبَهَا. فَإِنْ رَضِيَهَا أَمْسَكَهَا، وَإِنْ سَخِطَهَا رَدَّهَا وَصَاعًا مِنْ تَمْرٍ.

[3350–12]. (Dar al-Salam 3621) ʿUbaydullāh ibn Muʿādh al-ʿAnbarī narrated:[vi] my father narrated; Shuʿbah narrated; from ʿAdiy (who is Ibn Thābit); from Abu Ḥāzim; from Abu Hurayrah that **‘God’s Messenger (peace be upon him) prohibited intercepting travellers, that an urban person sells on behalf of a Bedouin, that a woman requests the divorce of her sister, deceptive outbidding, milk retaining in udders and offering to buy what someone else is buying’.**

حَدَّثَنَا عُبَيْدُ اللهِ بْنُ مُعَاذٍ الْعَنْبَرِيُّ، حَدَّثَنَا أَبِي، حَدَّثَنَا شُعْبَةُ، عَنْ عَدِيٍّ (وَهُوَ ابْنُ ثَابِتٍ)، عَنْ أَبِي حَازِمٍ، عَنْ أَبِي هُرَيْرَةَ، أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ نَهَى عَنِ التَّلَقِّي لِلرُّكْبَانِ، وَأَنْ يَبِيعَ حَاضِرٌ لِبَادٍ. وَأَنْ تَسْأَلَ الْـمَرْأَةُ طَلاَقَ أُخْتِهَا. وَعَنِ النَّجْشِ وَالتَّصْرِيَةِ، وَأَنْ يَسْتَامَ الرَّجُلُ عَلَى سَوْمِ أَخِيهِ.

Abu Bakr ibn Nāfiʿ narrated; Ghundar narrated [H]. Also, Muhammad ibn al-Muthannā narrated; Wahb ibn Jarīr narrated [H]. And, ʿAbd al-Wārith ibn ʿAbd al-Ṣamad narrated; my father narrated; all of them said: Shuʿbah narrated; with the same chain of transmission: **the same text. However, in Ghundar’s and Wahb’s narrations: ‘It is prohibited that…’ and in ʿAbd al-Ṣamad’s narration, it is the same as that of Muʿādh from Shuʿbah: ‘that God’s Messenger prohibited…’.**

وَحَدَّثَنِيهِ أَبُو بَكْرِ بْنُ نَافِعٍ، حَدَّثَنَا غُنْدَرٌ، ح. وَحَدَّثَنَاهُ مُحَمَّدُ بْنُ الْـمُثَنَّى، حَدَّثَنَا وَهْبُ بْنُ جَرِيرٍ ح. وَحَدَّثَنَا عَبْدُ الْوَارِثِ بْنُ عَبْدِ الصَّمَدِ، حَدَّثَنَا أَبِي. قَالُوا جَمِيعًا: حَدَّثَنَا شُعْبَةُ، بِهَذَا الإِسْنَادِ . فِي حَدِيثِ غُنْدَرٍ وَوَهْبٍ: نُهِيَ .

وَفِي حَدِيثِ عَبْدِ الصَّمَدِ أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ نَهَى. بِمِثْلِ حَدِيثِ مُعَاذٍ عَنْ شُعْبَةَ.

[3351–13]. (Dar al-Salam 3622) Yaḥyā ibn Yaḥyā narrated:[vii] he said: I read out to Mālik; from Nāfiʿ; from Ibn ʿUmar: **‘that God’s Messenger (peace be upon him) prohibited deceptive outbidding’.**

حَدَّثَنَا يَحْيَى بْنُ يَحْيَى، قَالَ قَرَأْتُ عَلَى مَالِكٍ، عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ، أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ نَهَى عَنِ النَّجْشِ.

Text Explanation

In Hadith No. 3345, the Prophet prohibits offering to sell something to someone who has already agreed a deal. For example, one says to a buyer within the time allowed for return: ‘Do not go ahead with this purchase, and I will sell the same article to you for a lesser price, or I will sell you a better article for the same price or make a similar offer. This is certainly forbidden. It is also forbidden to buy something when another person has made a purchase deal to buy it. Thus, he says to the seller: ‘Do not go ahead with this sale and I will pay you more for the same article’, or he makes an offer along the same lines.

In hadith No. 3347, the Prophet orders that no one should make an offer to buy what his brother is buying. This refers to the case when the owner has agreed a price for some article with a prospective buyer, but the sale has not yet been concluded. A third person comes in and says to the owner that he will buy it. This is forbidden when the price has been agreed and settled. If an article is still available to the highest bidder, making an increased offer is not forbidden.

These hadiths mention the prohibition of making a counter proposal of marriage and the case of a woman seeking the divorce of another woman. We have discussed these cases in the Book of Marriage.

It is unanimously agreed upon that outbidding someone else in a deal of sale or purchase is forbidden. If someone disregards the prohibition and makes such a deal, he has committed an act of disobedience, but the new transaction takes effect. This is the view of al-Shāfiʿī, Abu Ḥanīfah and others. Dāwūd, however, says that the deal does not take effect. Mālik is reported to express two views along the same lines as the two we mentioned. The majority of Mālikī scholars suggest that sale and purchase for an increased offer are permissible. Al-Shāfiʿī said that some early scholars discourage this.

‘Deceptive outbidding’ is to make a higher bid for an article, with no intention of buying it, but instead to simply deceive someone else who wants it, encouraging him to increase his offer and buy it. This is forbidden, according to the unanimous verdict of scholars. Yet the transaction itself is valid. The sin involved applies to the one making the deceptive bid if the vendor is unaware of it. If both the bidder and the vendor are involved in it, both incur a sin. The buyer has no option to return the goods, if the vendor was not involved in the deceptive outbidding. The same is also the case if the vendor was involved because the buyer was not sufficiently alert. However, one report suggests that Mālik considers the sale invalid because of the fact that the Prophet prohibited it.

In hadith No. 3349, the Prophet says: ‘Do not retain milk in camel and sheep udders’. This is an order not to keep the milk in the udders of such animals when intending to sell them, so that a prospective buyer may think that they habitually produce plenty of milk. People used to tie the nipples of the she-camel or the sheep for two or three days so that its udder became overfull. The buyer might then offer a better price thinking that it habitually produced plenty of milk.

It should be clear that milk retention in udders is forbidden, whether the animal is a camel, cow, sheep, horse, donkey or any other, because it is a form of cheating. However, its sale is valid, despite the prohibition. The buyer is given both options of retaining what he buys or returning it. We will clarify this in the next chapter.

The hadiths make it clear that cheating in everything is forbidden, but the sale is valid nevertheless. It also shows that cheating by action is forbidden in the same way as cheating by word.

Transmission

The chain of transmission of hadith No. 3348 includes: ‘Shuʿbah narrat-ed; from al-ʿAlā’ and Suhayl; from their father; from Abu Hurayrah’. This is how it occurs in all manuscripts, ‘from their father’. This is problematic because al-ʿAlā’ is Ibn ʿAbd al-Raḥmān, while Suhayl is Ibn Abi Ṣāliḥ. The two are not brothers, and no one can be referred to as ‘their father’. The chain of transmission should have said ‘from their fathers’, in the plural. *Qadi* ʿIyāḍ mentions that according to all scholars in their areas the reference is to ‘their father’, and this is incorrect because they were not brothers. He adds that in some narrations, it occurs as ‘their fathers’ and this is the correct way.

i. Related by al-Bukhari, 2139 and 2165; Abu Dāwūd, 3436; al-Tirmidhī, 1292; al-Nasā’ī, 3238 and 4515; Ibn Mājah, 2171.
ii. Related by Ibn Mājah in a shorter version, 1868.
iii. In Dar al-Salam’s edition, this hadith is attached to the previous one.
iv. Related by al-Bukhari in a longer version, 2150; Abu Dāwūd, 3443; al-Nasā’ī, 4508.
v. A *ṣāʿ* is a volume measure, equal to the fill of an average man’s cupped hands four times.
vi. Related by al-Bukhari in similar wording, 2727; al-Nasā’ī in similar wording, 4503.
vii. Related by al-Bukhari, 2142 and 6963; al-Nasā’ī, 4517; Ibn Mājah, 2173.

CHAPTER 5

THE PROHIBITION OF GOODS INTERCEPTION

[3352–14]. (Dar al-Salam 3623-3624) Abu Bakr ibn Abi Shaybah narrated: Ibn Abi Zā'idah narrated [H]. Also, Ibn al-Muthannā narrated;[i] Yaḥyā (meaning Ibn Saʿīd) narrated [H]. And Ibn Numayr narrated; my father narrated; all of them from ʿUbaydullāh; from Nāfiʿ; from Ibn ʿUmar; that **'God's Mes-senger prohibited that goods are intercepted before they have reached the marketplaces'.**

This is Ibn Numayr's text. The other two said that the Prophet prohibited goods' interception.

حَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا ابْنُ أَبِي زَائِدَةَ، ح. وَحَدَّثَنَا ابْنُ الْـمُثَنَّى، حَدَّثَنَا يَحْيَى (يَعْنِي ابْنَ سَعِيدٍ)، ح. وَحَدَّثَنَا ابْنُ نُمَيْرٍ، حَدَّثَنَا أَبِي. كُلُّهُمْ عَنْ عُبَيْدِ اللهِ، عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ، أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ نَهَى أَنْ تُتَلَقَّى السِّلَعُ حَتَّى تَبْلُغَ الأَسْوَاقَ . وَهَذَا لَفْظُ ابْنِ نُمَيْرٍ. وَقَالَ الآخَرَانِ إِنَّ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ نَهَى عَنِ التَّلَقِّي.

Muhammad ibn Ḥātim and Isḥāq ibn Manṣūr narrated to me: both from Ibn Mahdī; from Mālik; from Nāfiʿ; from Ibn ʿUmar; from the Prophet: **the same text as Ibn Numayr's narration from ʿUbaydullāh.**

وَحَدَّثَنِي مُحَمَّدُ بْنُ حَاتِمٍ، وَإِسْحَاقُ بْنُ مَنْصُورٍ، جَمِيعًا عَنِ ابْنِ مَهْدِيٍّ، عَنْ مَالِكٍ، عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ، عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ . بِمِثْلِ حَدِيثِ ابْنِ نُمَيْرٍ عَنْ عُبَيْدِ اللهِ.

[3353–15]. (Dar al-Salam 3625) Abu Bakr ibn Abi Shaybah narrated:[ii] ʿAbdullāh ibn Mubārak narrated; from al-Taymī; from Abu ʿUthmān; from ʿAbdullāh; from the Prophet (peace be upon him) that **‘He prohibited intercepting goods intended for sale’.**

وَحَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا عَبْدُ اللهِ بْنُ مُبَارَكٍ، عَنِ التَّيْمِيِّ، عَنْ أَبِي عُثْمَانَ، عَنْ عَبْدِ اللهِ، عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: أَنَّهُ نَهَى عَنْ تَلَقِّي الْبُيُوعِ.

[3354–16]. (Dar al-Salam 3626) Yaḥyā ibn Yaḥyā narrated: Hushaym reported; from Hishām; from Ibn Sīrīn; from Abu Hurayrah. He said: **‘God’s Messenger (peace be upon him) prohibited that sale goods be intercepted’.**

حَدَّثَنَا يَحْيَى بْنُ يَحْيَى، أَخْبَرَنَا هُشَيْمٌ، عَنْ هِشَامٍ، عَنِ ابْنِ سِيرِينَ، عَنْ أَبِي هُرَيْرَةَ قَالَ: نَهَى رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ أَنْ يُتَلَقَّى الْجَلَبُ.

[3355–17]. (Dar al-Salam 3627) Ibn Abi ʿUmar narrated:[iii] Hishām ibn Sulaymān narrated; from Ibn Jurayj; Hishām al-Qurdūsī reported to me; from Ibn Sīrīn. He said: **‘I heard Abu Hurayrah say that God’s Messenger (peace be upon him) said: “Do not intercept fetched goods. Whoever intercepts and buys such**

goods and then the [original] owner comes to the market, he [i.e., the original owner] has a choice”.’

حَدَّثَنَا ابْنُ أَبِي عُمَرَ، حَدَّثَنَا هِشَامُ بْنُ سُلَيْمَانَ، عَنِ ابْنِ جُرَيْجٍ، أَخْبَرَنِي هِشَامٌ الْقُرْدُوسِيُّ، عَنِ ابْنِ سِيرِينَ قَالَ: سَمِعْتُ أَبَا هُرَيْرَةَ يَقُولُ: إِنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: «لا تَلَقَّوُا الْجَلَبَ. فَمَنْ تَلَقَّاهُ فَاشْتَرَى مِنْهُ، فَإِذَا أَتَى سَيِّدُهُ السُّوقَ، فَهُوَ بِالْخِيَارِ».

Text Explanation

The hadiths in this chapter make it clear that it is forbidden to intercept goods intended to be sold in the markets. This is the view of al-Shāfiʿī, Mālik and the majority of scholars. Abu Ḥanīfah and al-Awzāʿī said that such interception is permissible if it does not have an adverse effect on people. If it has, then it is reprehensible. The first view is the correct one because of the clear statement of prohibition. Our scholars say that the prohibition is conditional on knowing that such interception is forbidden. If a person has no intention of interception but goes out for some business of his own and buys such goods, two views are expressed about its prohibition by our Shāfiʿī scholars and also by Mālikī scholars. The more correct view, according to our scholars, is that it is also prohibited because the effect is the same. If one meets travelling traders and sells them, there are two views about its prohibition. If we adopt the verdict of prohibition, and the sale is made, it is valid.

Scholars say that the reason for the prohibition is to prevent harming the person who is bringing the goods and to protect him from anyone who tries to cheat him. Imam Abu ʿAbdullāh al-Mazarī said:

> It may be suggested that the reason for prohibiting an urban person selling on behalf of a Bedouin aims to make it easier for the towns people and the possibility of unfairness to the Bedouin. While the prohibition of goods interception aims to prevent unfairness to the Bedouin, as the Prophet says that if 'the original owner then comes to the market, he has a choice'. The answer to this is that in such matters, Islam considers people's interests. This requires that the interests of a group is preferred to the interests of an individual. It is not a case of one against one. When a Bedouin sells his own goods, all people in the market will benefit as they buy at a lower price, and this gives the benefit to all the people of the town. Therefore, Islamic law attaches more importance to the interests of the towns people against the Bedouin. In the case of intercepting the goods before reaching the market, only the one who intercepts has the benefit, which is a case of one against one. Hence, no interest is served by allowing such interception. There is another reason which is the fact that the people in the market are adversely affected as only the interceptor gets the cheaper price, and he prevents their access to the merchandise. They are more in number than the interceptor. Hence, Islam takes their side against the interceptor. Thus, there is no contradiction between the two cases. Both serve the interests of the community, but God knows best.

Hadith No. 3355 mentions that if 'the original owner then comes to the market, he has a choice'. Our scholars say that the seller does not have a choice until he has been to the marketplace and has found out the prevailing price. If the interceptor had bought from him at less than the prevailing price, he certainly has a choice, based on whether he believes the interceptor has lied to him about the price or not. If he sold the goods at the same market price or higher, then there are two views. The more correct one is that he has no choice because he has not been defrauded. (Note: surely his choice was never removed. All in all, although I've gone over this

two/three times, I still have some uncertainty about the phrase ‘he has a choice’ – in both the hadiths and explanations.) The other view is that he has a choice because the hadith gives a general statement.

Clarification

The prohibition of meeting those who bring goods to sell in a town before they arrive and to buy the goods from them looks at the interests of the people generally. This used to be done with the aim of securing some profit for the interceptor who buys the goods at a lower price and then sells them in the marketplace, adding a margin of profit. This is prohibited because it involves a disadvantage for the original owner who sells at a lower price and a disadvantage for the townspeople who will buy at a higher price. In today’s world, there are some forms of this, but there are other forms to which the prohibition may not apply. Take for example a businessman travelling to another country, visiting manufacturers and placing an order for a quantity of a particular product. He is an importer who makes profit, but his action does not seem to be included in the prohibition because the chance is available to other importers to do the same. Moreover, the manufacturer can resort to a different arrangement, making export agreements with business people in the country or city where his goods are needed.

As conditions change, scholars need to look at the reasons behind the prohibition of certain forms of business and determine whether these reasons apply to certain business practices. If they do, then the scholars should rule that these practices are unlawful from the Islamic point of view. One form which merits careful looking into is online trading which has had, and continues to have, a serious effect on normal business and trading. The Islamic principles that outlaw certain types of sales, due to the deception or absence of clarity involved, may be applicable to online trading, particularly where the quality of the goods available cannot be assessed

until they have been used for some time. When they are discovered to be of low quality, the period allowed for returning them might have lapsed.

i. Related by al-Nasā’ī, 4510.
ii. Related by al-Bukhari in a longer version, 2149 and 2164; al-Tirmidhī, 1220; Ibn Mājah, 2180.
iii. Related by al-Nasā’ī, 4513.

CHAPTER 6

THE PROHIBITION OF A TOWNSMAN SELLING FOR A BEDOUIN

[3356–18]. (Dar al-Salam 3628) Abu Bakr ibn Abi Shaybah, ʿAmr al-Nāqid and Zuhayr ibn Ḥarb narrated:[i] they said: Sufyān narrated; from al-Zuhrī; from Saʿīd ibn al-Musayyib; from Abu Hurayrah; attributing it to the Prophet (peace be upon him). He said: **‘Let no townsman sell on behalf of a Bedouin’.**

Zuhayr said that the Prophet (peace be upon him) **‘Prohibited that a townsman should sell on behalf of a Bedouin’.**

حَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، وَعَمْرٌو النَّاقِدُ، وَزُهَيْرُ بْنُ حَرْبٍ، قَالُوا: حَدَّثَنَا سُفْيَانُ، عَنِ الزُّهْرِيِّ، عَنْ سَعِيدِ بْنِ الْـمُسَيَّبِ، عَنْ أَبِي هُرَيْرَةَ، يَبْلُغُ بِهِ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: «لا يَبِعْ حَاضِرٌ لِبَادٍ».

وَقَالَ زُهَيْرٌ عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ أَنَّهُ نَهَى أَنْ يَبِيعَ حَاضِرٌ لِبَادٍ.

[3357–19]. (Dar al-Salam 3629) Isḥāq ibn Ibrāhīm and ʿAbd ibn Ḥumayd narrated:[ii] both said: ʿAbd al-Razzāq narrated; Maʿmar reported; from Ibn Ṭāwūs; from his father; from Ibn ʿAbbās. He said: **‘God’s Messenger prohibited that travellers be met, and that a townsman sells on behalf of a Bedouin’. He said: ‘I said to Ibn ʿAbbās: “What did he mean by townsman for a Bedouin”. He said: “The townsman should not be his agent”.’**

وَحَدَّثَنَا إِسْحَاقُ بْنُ إِبْرَاهِيمَ، وَعَبْدُ بْنُ حُمَيْدٍ، قَالا: حَدَّثَنَا عَبْدُ الرَّزَّاقِ، أَخْبَرَنَا مَعْمَرٌ، عَنِ ابْنِ طَاوُسٍ، عَنْ أَبِيهِ، عَنِ ابْنِ عَبَّاسٍ قَالَ: نَهَى رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ أَنْ تُتَلَقَّى الرُّكْبَانُ، وَأَنْ يَبِيعَ حَاضِرٌ لِبَادٍ . قَالَ: فَقُلْتُ لِابْنِ عَبَّاسٍ: مَا قَوْلُهُ حَاضِرٌ لِبَادٍ؟ قَالَ: لا يَكُنْ لَهُ سِمْسَارًا.

[3358–20]. (Dar al-Salam 3630-3631) Yaḥyā ibn Yaḥyā al-Tamīmī narrated:[iii] Abu Khaythamah reported; from Abu al-Zubayr; from Jābir [H]. Also, Ahmad ibn Yūnus narrated; Zuhayr narrated; Abu al-Zubayr narrated; from Jābir; he said that **‘The Prophet said: “No townsman may sell on behalf of a Bedouin. Leave people so that God will provide for some by means of others”.’**

However, in Yaḥyā’s narration the last sentence is expressed in the passive voice.

حَدَّثَنَا يَحْيَى بْنُ يَحْيَى التَّمِيمِيُّ، أَخْبَرَنَا أَبُو خَيْثَمَةَ، عَنْ أَبِي الزُّبَيْرِ، عَنْ جَابِرٍ، ح. وَحَدَّثَنَا أَحْمَدُ بْنُ يُونُسَ، حَدَّثَنَا زُهَيْرٌ، حَدَّثَنَا أَبُو الزُّبَيْرِ، عَنْ جَابِرٍ قَالَ: قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «لا يَبِعْ حَاضِرٌ لِبَادٍ. دَعُوا النَّاسَ يَرْزُقِ اللهُ بَعْضَهُمْ مِنْ بَعْضٍ».

غَيْرَ أَنَّ فِي رِوَايَةِ يَحْيَى «يُرْزَقُ».

Abu Bakr ibn Abi Shaybah and ʿAmr al-Nāqid narrated:[iv] both said: Sufyān ibn ʿUyaynah narrated; from Abu al-Zubayr; from Jābir; from the Prophet: **the same text**.

حَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، وَعَمْرٌو النَّاقِدُ، قَالا: حَدَّثَنَا سُفْيَانُ بْنُ عُيَيْنَةَ، عَنْ أَبِي الزُّبَيْرِ، عَنْ جَابِرٍ، عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ بِمِثْلِهِ.

[3359–21]. (Dar al-Salam 3632) Yaḥyā ibn Yaḥyā narrated:[v] Hushaym reported; from Yūnus; from Ibn Sīrīn; from Anas ibn Mālik. He said: **‘We were forbidden that a townsman sells on behalf of a Bedouin, even though he may be his brother or father’.**

وَحَدَّثَنَا يَحْيَى بْنُ يَحْيَى، أَخْبَرَنَا هُشَيْمٌ، عَنْ يُونُسَ، عَنِ ابْنِ سِيرِينَ، عَنْ أَنَسِ بْنِ مَالِكٍ، قَالَ: نُهِينَا أَنْ يَبِيعَ حَاضِرٌ لِبَادٍ، وَإِنْ كَانَ أَخَاهُ أَوْ أَبَاهُ.

[3360–22]. (Dar al-Salam 3633) Muhammad ibn al-Muthannā narrated: Ibn Abi ʿAdiy narrated; from Ibn ʿAwn; from Muhammad; from Anas [H]. Also, Ibn al-Muthannā narrated; Muʿādh narrated; Ibn ʿAwn narrated; from Muhammad. He said: **‘Anas ibn Mālik said: “We were forbidden that a townsman should sell on behalf of a Bedouin”.’**

حَدَّثَنَا مُحَمَّدُ بْنُ الْـمُثَنَّى، حَدَّثَنَا ابْنُ أَبِي عَدِيٍّ، عَنِ ابْنِ عَوْنٍ، عَنْ مُحَمَّدٍ، عَنْ أَنَسٍ،ح. وَحَدَّثَنَا ابْنُ الْـمُثَنَّى، حَدَّثَنَا مُعَاذٌ، حَدَّثَنَا ابْنُ عَوْنٍ، عَنْ مُحَمَّدٍ قَالَ: قَالَ أَنَسُ بْنُ مَالِكٍ نُهِينَا عَنْ أَنْ يَبِيعَ حَاضِرٌ لِبَادٍ.

Text Explanation

These hadiths state the prohibition of a townsman undertaking the selling of goods for a Bedouin. This is the view of al-Shāfiʿī and the majority of scholars. Our scholars said that it refers to a stranger coming from a desert area or from another town bringing some goods that are commonly needed by people, intending to sell these goods at the price prevailing on the day. A townsman may say to him: ‘Leave it with me and I will sell it for you gradually at a higher price’. Our scholars say that this arrangement is forbidden under such conditions and, also, provided that the person concerned is aware of the prohibition. If he is unaware of it, or if the goods are not generally needed in the town and does not affect the market because its amount is small, then there is no prohibition. If the prohibition is unheeded and a townsman sells on behalf of a Bedouin, the sale is valid although the prohibition stands. This is the view of our school, and it is shared by a number of Mālikī and other scholars. Some Mālikī scholars said that the sale is cancelled unless it has already occurred.

ʿAṭā’, Mujāhid and Abu Ḥanīfah, however, said that it is permissible for a townsman to undertake selling on behalf of a Bedouin in any case, on the basis of the hadith that says: ‘Religion is sincere advice’. They add that the hadith censuring selling on behalf of a Bedouin was abrogated. Some said that it merely implies mild discouragement.

i. Related by al-Bukhari, 2140; Abu Dāwūd, 2080 and 3438; al-Tirmidhī, 1134, 1190, 1222 and 1304; al-Nasā’ī, 3239; Ibn Mājah, 1867, 2172, 2174 and 2175.

ii. Related by al-Bukhari, 2158, 2163 and 2274; Abu Dāwūd, 3439; al-Nasā’ī, 4512; Ibn Mājah, 2177.

iii. Related by Abu Dāwūd, 3442.

iv. Related by al-Tirmidhī, 1223; Ibn Mājah, 2176.

v. Related by al-Bukhari, 2161; Abu Dāwūd, 3440; al-Nasā’ī, 4504, 4505 and 4506.

CHAPTER 7

THE SELLING OF AN ANIMAL WITH AN OVERFULL UDDER

[3361–23]. (Dar al-Salam 3634) ʿAbdullāh ibn Maslamah ibn Qaʿnab narrated:[i] Dāwūd ibn Qays narrated; from Mūsā ibn Yasār; from Abu Hurayrah; he said that **‘God’s Messenger (peace be upon him) said: “If a person buys a sheep with an overfull udder, let him take it away and milk it. If he is satisfied with its milk, he retains it. Otherwise, he returns it with a *ṣā*ʿ[ii] of dates”.’**

حَدَّثَنَا عَبْدُ اللهِ بْنُ مَسْلَمَةَ بْنِ قَعْنَبٍ، حَدَّثَنَا دَاوُدُ بْنُ قَيْسٍ، عَنْ مُوسَى بْنِ يَسَارٍ، عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «مَنِ اشْتَرَى شَاةً مُصَرَّاةً فَلْيَنْقَلِبْ بِهَا، فَلْيَحْلُبْهَا. فَإِنْ رَضِيَ حِلاَبَهَا أَمْسَكَهَا، وَإِلاَّ رَدَّهَا وَمَعَهَا صَاعٌ مِنْ تَمْرٍ».

[3362–24]. (Dar al-Salam 3635) Qutaybah ibn Saʿīd narrated: Yaʿqūb (meaning Ibn ʿAbd al-Raḥmān al-Qariy) narrated; from Suhayl; from his father; from Abu Hurayrah; that **‘God’s Messenger (peace be upon him) said: “If a person buys a sheep with an overfull udder, he has the option for three days: he may retain it if he wishes or return it together with a *ṣā*ʿ of dates”.’**

حَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ، حَدَّثَنَا يَعْقُوبُ (يَعْنِي ابْنَ عَبْدِ الرَّحْمَنِ الْقَارِيَّ)، عَنْ سُهَيْلٍ، عَنْ أَبِيهِ، عَنْ أَبِي هُرَيْرَةَ، أَنَّ رَسُولَ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: «مَنِ ابْتَاعَ شَاةً مُصَرَّاةً، فَهُوَ فِيهَا بِالْخِيَارِ ثَلاَثَةَ أَيَّامٍ. إِنْ شَاءَ أَمْسَكَهَا، وَإِنْ شَاءَ رَدَّهَا وَرَدَّ مَعَهَا صَاعًا مِنْ تَمْرٍ».

[3363–25]. (Dar al-Salam 3636) Muhammad ibn ʿAmr ibn Jabalah ibn Abi Rawwād narrated:[iii] Abu ʿĀmir (meaning al-ʿAqadī) narrated; Qurrah narrated; from Muhammad; from Abu Hurayrah; from the Prophet (peace be upon him). He said: **‘A person who buys a sheep with an overfull udder has the option for three days: if he returns it, he returns with it a *ṣā*ʿ of food, but not wheat’.**

حَدَّثَنَا مُحَمَّدُ بْنُ عَمْرِو بْنِ جَبَلَةَ بْنِ أَبِي رَوَّادٍ، حَدَّثَنَا أَبُو عَامِرٍ (يَعْنِي الْعَقَدِيَّ)، حَدَّثَنَا قُرَّةُ، عَنْ مُحَمَّدٍ، عَنْ أَبِي هُرَيْرَةَ، عَنِ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَالَ: «مَنِ اشْتَرَى شَاةً مُصَرَّاةً فَهُوَ بِالْخِيَارِ ثَلاَثَةَ أَيَّامٍ. فَإِنْ رَدَّهَا رَدَّ مَعَهَا صَاعًا مِنْ طَعَامٍ، لا سَمْرَاءَ».

[3364–26]. (Dar al-Salam 3637) Ibn Abi ʿUmar narrated:[iv] Sufyān narrated; from Ayyūb; from Muhammad; from Abu Hurayrah. He said: **‘God’s Messenger (peace be upon him) said: “Who-ever buys a sheep with an overfull udder may choose the better option: either he retains it if he so wishes, or he returns it together with a *ṣā*ʿ of dates, but not wheat”.’**

حَدَّثَنَا ابْنُ أَبِي عُمَرَ، حَدَّثَنَا سُفْيَانُ، عَنْ أَيُّوبَ، عَنْ مُحَمَّدٍ، عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «مَنِ اشْتَرَى شَاةً مُصَرَّاةً، فَهُوَ بِخَيْرِ النَّظَرَيْنِ: إِنْ شَاءَ أَمْسَكَهَا، وَإِنْ شَاءَ رَدَّهَا وَصَاعًا مِنْ تَمْرٍ، لا سَمْرَاءَ».

[3365–27]. (Dar al-Salam 3638) Ibn Abi ʿUmar narrated: ʿAbd al-Wahhāb narrated; from Ayyūb; with the same chain of transmission: **the same text except that he said: ‘Whoever buys some sheep has the option’.**

وَحَدَّثَنَاهُ ابْنُ أَبِي عُمَرَ، حَدَّثَنَا عَبْدُ الْوَهَّابِ، عَنْ أَيُّوبَ، بِهَذَا الإِسْنَادِ. غَيْرَ أَنَّهُ قَالَ: «مَنِ اشْتَرَى مِنَ الْغَنَمِ فَهُوَ بِالْخِيَارِ».

[3366–28]. (Dar al-Salam 3639) Muhammad ibn Rāfiʿ narrated: ʿAbd al-Razzāq narrated; Maʿmar narrated; from Hammām ibn Munabbih. He said: ‘**This is what Abu Hurayrah narrated to us from God’s Messenger (peace be upon him)….’. He mentioned a number of hadiths including: ‘And God’s Messenger said: “If any of you buys a she-camel that has recently given birth or a sheep with an overfull udder, he has the option he prefers after he has milked it: either to keep it, or to return it together with a *ṣāʿ* of dates”.’**

حَدَّثَنَا مُحَمَّدُ بْنُ رَافِعٍ، حَدَّثَنَا عَبْدُ الرَّزَّاقِ، حَدَّثَنَا مَعْمَرٌ، عَنْ هَمَّامِ بْنِ مُنَبِّهٍ قَالَ: هَذَا مَا حَدَّثَنَا أَبُو هُرَيْرَةَ، عَنْ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، فَذَكَرَ أَحَادِيثَ مِنْهَا: وَقَالَ: قَالَ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ

وَسَلَّمَ: إِذَا مَا أَحَدُكُمُ اشْتَرَى لِقْحَةً مُصَرَّاةً، أَوْ شَاةً مُصَرَّاةً، فَهُوَ بِخَيْرِ النَّظَرَيْنِ بَعْدَ أَنْ يَحْلُبَهَا: إِمَّا هِيَ، وَإِلاَّ فَلْيَرُدَّهَا وَصَاعًا مِنْ تَمْرٍ.

Text Explanation

We mentioned earlier that tying up the nipples of a sheep or a she-camel in order to retain the milk in its udder is forbidden. These hadiths show that although this action is forbidden, the sale remains valid. They also show that any sale that involves false appearance gives the buyer an option to return it. Our scholars hold different views concerning a person who buys a sheep whose nipples were tied up for a couple of days to give it an overfull udder: is his option immediate on learning of the fact, or does it extend for three days? It is said that the option extends over three days, on the basis of the apparent meaning of these hadiths. However, the more correct view according to them is that the option is immediate. They understand that the extension over three days in some hadiths applies to one who did not realize that the sheep was of this type until three days had passed, because in most cases he would not realize this in less than three days. The point here is that if the sheep gave less milk on the second day, this might be accidental as it might not have grazed well on that day, or for some other reason. If the decrease continued for three days, the buyer would then be certain that it had been tied up to increase her milk yield.

If the buyer chooses to return the animal he bought, he returns it adding a *ṣāʿ* of dates, whether the milk was plentiful or small in amount, and whether the animal was a she-camel, a cow or a sheep. This is the view of our school, and it is shared by Mālik, al-Layth, Ibn Abi Laylā, Abu Yūsuf, Abu Thawr and scholars who combine Fiqh and Hadith scholarship. It is the correct view that is consistent with the Sunnah. Some of our Shāfiʿī scholars said that what the buyer returns may be from the staple diet of his town, not necessarily dates.

On the other hand, Abu Ḥanīfah and a group of Iraqi scholars, some Mālikī scholars and Mālik in an odd report attributed to him say that the buyer returns the animal without adding a *ṣāʿ* of dates because the operative principle is that if a person spoils something belonging to another, he

returns its like, if it has similar things, or its value. To give some other commodity is contrary to principle. The majority of scholars respond that if the Sunnah states something, it cannot be countered with a logical argument. That it is defined as one *ṣāʿ* of dates is due to the fact that dates were the staple diet at the time, and the ruling continues after that. It is not right to give its equivalent or its value; it must be this amount whatever the case may be, so that this is the applied standard, leaving no room for dispute. The Prophet (peace be upon him) was keen to remove any reason that may lead to dispute. An animal with an overfull udder may occur in a desert area, or in a village or in places where no one is acknowledged to know the value of what is wasted; the milk may become sour, and the people involved may dispute its quantity or amount. To prevent all such disputes, Islamic law defines something indisputable, which, in this case, is a *ṣāʿ* of dates. A similar case is blood money in the case of a killing: it is one hundred camels. It is not different in respect of any killed person, so as to prevent dispute. The same is the case of indemnity for causing miscarriage: it is the same whether the foetus is that of a male or female, completely formed or not, beautiful or not. Likewise, making up for an amount of zakat in between two limits: it is either two sheep or twenty dirhams, so that no dispute arises, whether the difference between the two cases is large or small. Al-Khaṭṭābī and others mention something on these lines, but God knows best.

It might be asked why the buyer is required to give compensation for the milk he used despite the rule that such gain is in return for his being responsible for the safety of what he bought. It is well known that if someone buys a defective article, then realizes that it is defective and returns it for that reason, he is not required to return any income he made from that defective article. So, the answer to this question would be that the milk is not an income that accrued to the buyer. It was with the seller at the time of the transaction and the deal included it together with the sheep. The two are sold together for the total price. It is impossible to return the milk

because it has been mixed with what happened during the buyer's possession of the sheep. Therefore, some compensation needs to be made, but God knows best.

i. Related by al-Bukhari, 2148; al-Nasā'ī, 4500.
ii. A *ṣāʿ* is a volume measure, equal to the fill of an average man's cupped hands four times.
iii. Related by al-Tirmidhī, 1252.
iv. Related by al-Nasā'ī, 4501.